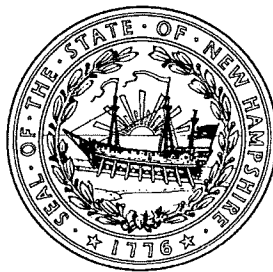


HANDOUTS FOR
TRUSTEES OF TRUST FUNDS
CEMETERY TRUSTEES
LIBRARY TRUSTEES



2015 SESSIONS

The State of New Hampshire
Department of Justice
Charitable Trusts Unit
33 Capitol Street
Concord, NH 03301-6397
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PROPOSED PROCEDURES FOR PROCESSING CEMETERY CY PRES PETITIONS UNDER RSA 31:22-a¹

The following is intended to set forth a standardized plan for processing cemetery cy pres petitions under RSA 31:22-a. Its purpose is to develop a consistent process by which these cases can be handled and to provide guidance to trustees and attorneys who may be unfamiliar with the statutory requirements.

1. *PRELIMINARY CONSIDERATIONS*

A. Is there sufficient accumulated excess trust income in the cemetery trust accounts to justify a petition for cy pres?

The fact that there is accumulated income, *i.e.*, income earned by the individual trust accounts which has not been fully expended and has, therefore, accumulated over a period of time in the cemetery trust funds, does not necessarily suggest that a petition for cy pres under RSA 31:22-a is in order. The following should be kept in mind.

(1) The statute permits cy pres of the trust funds only upon a showing that the income in the individual accounts will not be required for the care of the particular lots to which they pertain "in the foreseeable future." The trustees will want to look not only at the present amount of accumulated income but whether over an extended period of time that income continues to accumulate or whether it periodically fluctuates. If accumulated income fluctuates over an extended period of time, it might not be wise to file a petition for cy pres. The depletion of accumulated income in a trust account to the point where there is not sufficient income in the account to provide perpetual care for the lot in the foreseeable future may constitute a breach of trust by the trustees.

(2) The costs of maintenance of the particular lots over the foreseeable future may fluctuate. The normal maintenance cost for individual lots is nominal, but periodically through vandalism, natural disaster or the like major expenditures may be required from perpetual care income. In addition, individual lots will occasionally require major expenditures for repairs, re-facing and the like due solely to the passage of time. The trustees will want to take these factors into account in determining what amount of the accumulated income they wish to cy pres and whether they wish to reserve a portion of that amount for emergency unforeseen repairs and foreseeable major maintenance for individual lots.

(3) Because of the foregoing, as a general rule the Attorney General will oppose petitions where there is less than \$10,000 in accumulated income or

¹ These procedures were first published in 1993, but they are still being used today.

accumulated income is fluctuating over an extended period and bottoms below \$10,000.

B. Are the cemetery records in sufficiently good condition so that the petition can be brought?

It is important for the trustees to keep in mind that each account is treated by the court as a separate charitable trust. Cities and towns which do not list the individual cemetery accounts separately on their MS-9s may not avail themselves of the cy pres remedy provided by the statute because in such cases there is no means of allocating back to the individual accounts the amount of excess income removed. Therefore, the trustees should review their records and be certain that with respect to each individual account they have a date when the account or trust was established, the original principal amount of the individual trust, the income which that particular trust has accumulated and the expenses which have been incurred for that particular lot, and that the trustees make an effort to locate the original trust instrument for each trust. Without this information the court cannot act on the petition.

2. PREPARING THE PETITION

A. The petition should be brought in the probate court in the names of the Trustees of the Trust Funds of the Town of _____ v. Attorney General, Director of Charitable Trusts, and should be under oath. It will be helpful if the petition contains the following allegations:

(1) The number of trust accounts which are proposed to be subject to the petition, the total original principal in the accounts; the total principal plus realized gains in the accounts, and the total accumulated income in the accounts when the most recent MS-9 was filed by the trustees.

(2) The accumulated income in the trust accounts ten years preceding the petition, and the income earned by the accounts, expenses incurred and income accumulated in each of the succeeding years through the most recent MS-9.

(3) Whether the town has appropriated funds over the last ten years for perpetual care to any of the lots to which the accounts pertain, and if so the total cost of perpetual care care/trust expense and town expense for each of the succeeding years.

(4) A statement to the effect that the lots to which the perpetual care accounts pertain have been inspected by the trustees, that the lots are in good repair, well maintained, and that it is presently impracticable for the trustees to expend the actual accumulated income on the particular lots.

(5) The reason the trustees believe it will be impracticable to expend the entire accumulated income for perpetual care to the particular lots in the foreseeable future.

(6) The amount stated in dollars which the trustees desire to have the court designated as excess accumulated income.

(7) The purposes to which the trustees will apply the excess accumulated income. The Attorney General will resist the application of excess accumulated income to reduce the appropriations normally made for cemetery maintenance. We do not believe it was the intention of the legislature that accumulated income should be applied to reduce or extinguish the town's duty to maintain cemeteries under RSA 289:6.

C. Where the trust accounts from which income is to be removed as "excess" include trusts whose settlers are still alive, or where there is doubt about the death of the settlor, the attorney should request appropriate orders of notice to be mailed to such persons, or, if appropriate, published.

D. We will be pleased to review draft petitions and provide comments. Service of petitions upon the Attorney General in these cases may generally be by mail, but you should contact the Charitable Trusts Unit on this issue prior to filing.

3. AFTER THE PETITION HAS BEEN BROUGHT

A. Classifying the trusts. At the outset the attorney for the trustees should help the trustees to classify the individual trusts into different groups. Normally there are two major groups of cemetery trusts:

(1) Those which have instruments pursuant to which the trust was established. The attorney will want to review the trust instruments initially to determine if the trust instruments reasonably disclose a general charitable intent on the part of the settler. Some cemetery trust instruments are clearly not charitable by their terms and, therefore, cy pres cannot be applied to them. These trusts should be excluded from the petition. Other cemetery trust instruments may clearly evidence a general charitable intent or may even have specific provisions permitting the excess income to be applied to general cemetery purposes. A third group of these may be ambiguous. In any case, with respect to any cemetery trusts for which there is a trust instrument the attorney should have copies made and be prepared to submit copies to the court and opposing parties so that a final determination can be made by the court with respect to the charitable nature of these particular cemetery trusts.

(2) The second broad grouping is those cemetery trusts for which after diligent search by the trustees no trust instrument can be found. The diligent search should include at least the following: examination of available records in the trustees' possession and in the town relating to cemetery trusts and examination of the records in the appropriate county registry of probate to determine whether there are any records of trust instruments for these trusts in the probate administration for the particular decedents. If after diligent search a trust instrument cannot be located this grouping should be listed separately with the name of the decedent, the date the trust was established, the original principal of the trust, the present principal of the trust, the accumulated income and the expenses of the trust (this is all the information on the MS-9s).

B. Is a guardian ad litem necessary?

There may be at least three situations where it will be necessary to appoint a guardian ad litem:

(1) Where the trust documents expressly or impliedly created a reverter of accumulated excess income to the decedent's heirs (please see RSA 564-B:4-413);

(2) Where the trust documents do not expressly or impliedly manifest a general charitable intent, thereby prohibiting the use of the cy pres doctrine;

(3) Where, even though written trust agreements do not exist, other evidence suggests that no general charitable intent was manifested by the testators, thereby prohibiting the use of the cy pres doctrine.

If any of the three above conditions exist, then unknown heirs may have an interest in reversion of excess income from the decedent's estate. Thus, whenever there is doubt from an examination of the circumstances whether any of the foregoing conditions is present, application for a guardian ad litem should probably be made.

4. ELEMENTS OF PROOF

A. General charitable intent.

For those trusts for which there is no trust instrument, in the absence of other evidence, a general charitable intent will be presumed for the reasons set out in Judge DiClerico's decree in *Amherst Trustees of Trust funds v. Attorney General* (see unreported decision attached to this publication). General charitable intent for those trusts which have trust instruments may be proved in the normal manner based on the language of the document or the absence of a reverter clause.

B. Impracticability.

The burden of proof is on the petitioner to establish by competent evidence, based on reasonable probabilities, that a certain portion of the accumulated income in the trust funds is not and will not in the foreseeable future be needed for the care of the burial lot to which it applies. In making this determination the statute requires a "projection of future interest rates" and a "projection of future labor costs necessary to maintain the lot." We try to be flexible on the manner in which these elements of proof are met by the petitioner. The following are some suggestions:

(1) A showing that the income has continued to accumulate during a period when there were wide fluctuations in the interest rate would tend to suggest that the income has reached such a mass that it will continue to accumulate in the future beyond the needs of particular lots irrespective of what the interest rate may be. The prime interest rate in 1977 was 6-1/4%, it escalated to 21-1/2% in 1981, and declined to 7-1/4% by January 1, 1987. A trust which has continued to accumulate income throughout this period is probably likely to continue to do so in the future irrespective of future fluctuations in the interest rate.

(2) A showing that over an extended period of time (we look at a ten-year period) current income in each year has exceeded current expenses in that year will tend to show that income will continue to outstrip expenses in the foreseeable future. However, attorneys should exercise care in treating the current expense numbers in the MS-9s as reflective of the actual expense for maintenance of a particular burial lot. Trustees customarily allocate the total expense of cemetery maintenance back to the individual lots on a mathematical basis; these figures do not necessarily represent the true expense of maintaining a particular lot. Attorneys should also keep in mind that the expenses shown on the MS-9 are not necessarily the entire amount expended for maintenance of that particular lot. It is not unusual for towns to supplement trust fund income by appropriations from the general budget. Thus, the actual expenses of maintaining a particular lot may be higher than is reflected in the MS-9. If this is the case, the additional appropriation made by the town should be factored in to gain a truer picture of the cost to maintain each lot.

(3) Some attorneys have produced to testify the individual who has actually been in charge of maintenance of the cemeteries over the years. This individual can provide anecdotal testimony about costs for the maintenance of particular lots, the normal interval between major restoration and repairs, and similar information upon which the court can base its finding.

(4) These elements might also be proved by expert testimony in the same manner in which evidence of future earnings is adduced in personal injury or wrongful death cases.

(5) Of course, the trustees should be prepared to testify that they have examined each of the burial lots for which cy pres of accumulated income is being sought; and that each of those lots is in good condition, properly seeded, mowed and landscaped, the stone is in good repair, not loose, cracked or otherwise damaged and the markings are legible. This information is a necessary basis for a finding that it is presently impracticable to expend the accumulated income in the account for the particular lot to which it pertains.

5. *FASHIONING A DECREE*

A. The Agreed Statement of Facts.

The agreed statement of facts should contain at least the following:

(1) The names of all trust accounts for which no instrument can be found from which it is proposed excess accumulated income will be removed, the date of establishment of the account, the original principal, the principal plus realized gain, and accumulated income as of the most recent year for which the trustees made their report.

(2) The names of any accounts for which there is a trust instrument, the original principal, date of establishment, principal plus realized gains and accumulated income as of the date of the most recent report of the trustees. A copy of the trust instrument should be attached.

(3) A statement by the trustees that they have inspected all the burial lots from whose accounts income will be removed, that each such burial lot is well maintained and in a state of good repair, and that it would be impracticable for the trustees to expend any additional income from that account for the perpetual care of the particular lot.

(4) Total income earned by the accounts to be cy presed in each of the previous ten years.

(5) Accumulated income over the previous ten years.

(6) The amount of reserve which the trustees believe prudent to retain for unforeseen emergencies or disasters in each lot.

(7) The purpose to which the trustees intend to put the cy presed funds.

(8) The manner in which the trustees propose to allocate back to the individual accounts the funds cy presed.

(9) The agreement by the trustees that they will file a separate report to the Attorney General, Director of Charitable Trusts of expenditures and receipts of the funds cy presed.

B. Consent Decree.

We are hopeful that in most cases the petition can be concluded by a consent decree so that a hearing on the facts of the petition can be avoided. Generally the consent decree should include at least the following:

(1) A paragraph incorporating the agreed statement of facts.

(2) A finding based on the agreed statement of facts that each of the trusts is a charitable trust, and the circumstances that permit the court to infer the existence of a general charitable intent with respect to each trust.

(3) A finding that it is impracticable for the trustees to utilize the entire accumulated excess trust income for the perpetual care and maintenance of the particular trust accounts presently or in the foreseeable future.

(4) A finding that it would be in the public interest for the trustees to undertake certain activities, e.g., capital improvements to the cemetery, new approaches, new roadways and the like, with a certain portion of the accumulated income.

(5) A decree determining that a certain dollar amount is excess accumulated trust income.

(6) An order requiring the trustees to shift a certain dollar amount into a separate cemetery maintenance account and require the trustees to account annually to the Attorney General, Director of Charitable Trusts with respect to expenditures out of that account.

Please be advised that effective January 1, 1993, cy pres petitions are to be brought in the probate court for the county in which the town or city is located.

SAMPLE PETITION²

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

PROBATE COURT

Weare Trustees of Trust Funds

v.

New Hampshire Attorney General, Director of Charitable Trusts

PETITION UNDER RSA 31:22-a

Now Comes the Trustees of Trust Funds for the Town of Weare, Hillsborough County, New Hampshire 03281, and move this Honorable Court to grant their petition under RSA 31:22-a, stating as reasons therefore, the following:

1. That they are the Weare Trustees of Trust Funds, having been duly elected by the voters of Weare at the annual town meeting.
2. That they administer trust funds received for the care and maintenance of cemetery lots located in the Town of Weare in said county and state.
3. That they administer two hundred and fifty-seven (257) trust funds (a list of said trust funds is annexed hereto as Appendices A through H).³
4. That the annual income produced by said trust funds exceeds the annual amount expended for the care and maintenance of each individual lot covered by said trust funds.
5. That the Trustees desire to utilize accumulated excess trust income for the general care, capital improvements to or expansion of cemeteries and that it is in the public interest.

WHEREFORE, the petitioners respectfully pray that this Honorable Court:

(A) Grant their petition under RSA 31:22-a;

(B) Order that the Weare Trustees of Trust Funds can apply accumulated excess trust income for the general care, capital improvements to or expansion of cemeteries;

² This is an abstract of a real case filed in Hillsborough County Probate Court.

³ Appendices (pages from the town's MS-9) are not reproduced here.

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(C) Order that service may be had on the New Hampshire Attorney General Director of Charitable Trusts via certified mail, return receipt requested;

(D) Order that service may be had on Whom It May Concern by publication in the *Concord Monitor*; and

(E) Order any such further relief as may be just and equitable.

Respectfully submitted,

Trustees of Trust Funds for the Town of Weare, New Hampshire

OATH. We, the Trustees of Trust Funds for the Town of Weare, New Hampshire, hereby take oath and say that the facts contained in the above petition are true to the best of our ability.

_____ Petitioner

_____ Petitioner

_____ Petitioner

ACKNOWLEDGEMENT

STATE OF NEW HAMPSHIRE
HILLSBOROUGH, SS.

December 7, 1993

The Trustees of Trust Funds for the Town of Weare, New Hampshire personally appeared and took oath that the facts contained in the above petition are true to the best of their knowledge and belief.

Before me, _____
Notary Public

My Commission Expires: _____

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THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

PROBATE COURT

Trustees of Trust Funds for the Town of Weare

v.

New Hampshire Attorney General, Director of Charitable Trusts

#94-1094

STATEMENT IN SUPPORT OF PETITION FOR CY PRES

Now Comes the Trustees of Trust Funds for the Town of Weare, and state as follows:

1. The plaintiffs are trustees of the trust funds for the Town of Weare, New Hampshire, elected pursuant to RSA 31:22.
2. In their capacity as trustees of the trust funds the plaintiffs administered on December 31, 1994, 258 burial lot trust funds for the perpetual care of burial lots located in fourteen cemeteries in Weare, New Hampshire.
3. Of the 258 burial lot trust funds:
 - (a) The Plaintiffs after diligent search in the town records and the probate records for the County of Hillsborough have been able to locate trust instruments establishing 20 of these trusts, extracts from which are attached hereto. (Appendix Exhibit A).
 - (b) Forty-nine of the trusts have been created by standard deed, a copy of which is attached hereto. (Appendix Exhibit B).
 - (c) The plaintiffs after diligent search in the records of the town and the records of the registry of probate for the County of Hillsborough have been unable to locate any deed or trust instrument creating 189 of these burial lot trust funds.
4. As of December 31, 1994, the total principal in all burial lot trust funds administered by the plaintiffs was \$126,658.20; and the total accumulated income remaining in all trust fund accounts after the payment of all expenses for the perpetual care of the lots to which the trusts pertained was \$146,041.82. (Appendix Exhibit C).
5. The accumulated income of \$146,041.82 consists in part of income earned on principal, and in part of income earned on income in amounts which cannot be mathematically determined.

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6. Income earned from all burial lot trust funds has exceeded expenses in which each of the three most recent years preceding the date of this appeal as follows:

Year	Income	Expenses	Accumulated Balance
1994	\$14,914.66	\$9,454.16	\$146,041.82
1993	14,963.33	12,136.88	140,594.09
1992	14,657.73	8,186.00	137,786.07

7. The accumulated income of \$146,041.82 as of December 31, 1994, is distributed among the 14 cemeteries as follows:

	Cemetery Name	Accumulated Income
#1	Corliss Burial Place	\$81.95
#4	Hillside Cemetery	555.72
#5	Oil Mill (or Emerson) Cemetery	613.12
#8	Friends' North Cemetery	662.45
#10	East Weare Cemetery	40,629.81
#11	Center Square Cemetery	17,980.80
#13	Philbrick Cemetery	1,895.76
#16	Hadley Cemetery	215.54
#18	Collins Cemetery	47,679.39
#23	Dow-Peaslee Burying Ground	4,416.99
#25	Friends' New South Cemetery	1,463.12
#30	Johnson Cemetery	9,319.79
#32	Pine Grove (or New) Cemetery	14,009.92
#39	Eaton Cemetery	2,062.13
	Trust Fund lots not located	4,455.33

8. "Perpetual care" normally and customarily includes the following services provided to each burial lot for which there is a burial lot trust fund:

- Mowing
- Raking
- Trimming

9. "Perpetual care" does not normally and customarily include the following services (hereinafter referred to as extraordinary services) for burial lots:

- (a) re-seed grass
- (b) add loam, dirt and/or sod
- (c) repair gravestones
- (d) re-face gravestones
- (e) clean gravestones
- (f) repair interior fences

(g) any other activity necessary to maintain said lots in a reasonable, appropriate and dignified manner

10. The average annual cost to provide perpetual care for each of the lots for which there has been a burial lot trust fund has been as follows:

Year	Cost
1994	\$40
1993	\$36
1992	\$32

11. The accumulated income as of December 31, 1994, in excess of the first \$200 of accumulated income in each burial lot trust fund is not necessary for the perpetual care of the particular lot to which that trust fund pertains in the foreseeable future.

12. Reserving the first \$200 of accumulated income for each burial lot trust fund in the 14 cemeteries leaves a total of \$94,441.82 of excess accumulated income.

13. Because many burial lots with perpetual care trust funds have been restricted to the normal and customary mowing, raking and trimming, some extraordinary services are needed – primarily for work on stones. Therefore, accumulated excess income (Paragraph 12) will first be devoted to bringing burial lots referred to in Paragraph 2 in cemeteries listed in Paragraph 7 to reasonable, appropriation and dignified condition (Paragraph 9).

14. Because of the perpetual nature of these trusts, the possibility exists that due to act of God, vandalism, or other unforeseeable circumstance, one or more of the burial lots to which these trust funds pertain may at some point in the future require extraordinary service for which the income in the trust account is insufficient.

15. There exist within the Town of Weare other cemeteries and burial lots which are not properly maintained because of lack of funds available for their perpetual care and maintenance.

Dated this 8th day of March, 1995.

Respectfully submitted,

TRUSTEES OF TRUST FUNDS

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THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

PROBATE COURT

Trustees of Trust Funds for the Town of Weare

v.

New Hampshire Attorney General, Director of Charitable Trusts

#94-1094

STIPULATION FOR DECREE

Now come the Trustees of Trust Funds for the town of Weare, New Hampshire, and the New Hampshire Attorney General Director of Charitable Trusts, and stipulate the following:

1. The petitioners have been authorized to act on behalf of the Town of Weare with regard to trust funds.
2. That pursuant to said authority on behalf of the Town of Weare, the petitioners administer two hundred and fifty-seven (257) perpetual care trust accounts.
3. The accumulated income from said accounts as of the date of the granting of this Stipulation and an Order in accordance therewith is transferred to the petitioners.
4. The future income from said accounts is transferred to the petitioners.
5. The accumulated and future income from said accounts is not to be commingled with the general fund of the Town of Weare.
6. The petitioners agree that the responsibilities and obligations with regard to each and every cemetery lot covered by said accounts will be assumed and performed by the Weare Cemetery Trustees.
7. The responsibilities and obligations to be assumed and performed by the Weare Cemetery Trustees will include, but not be limited to the following:
 - (a) re-seed the grass
 - (b) add loam, dirt and/or sod
 - (c) repair gravestones
 - (d) re-face gravestones
 - (e) clean gravestones

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- (f) repair interior fences
- (g) any other activity necessary to maintain said lots in a reasonable, appropriate and dignified manner

8. The petitioners are authorized to expend said income for the activities listed in 7) above and for the general care of, capital improvement to or expansion of cemeteries.

9. The within Stipulation and the Order in accordance therewith shall bind the heirs, successors and assigns of the petitioners of the Weare Cemetery Trustees.

Respectfully submitted,

The Weare Trustees of Trust Funds

And

New Hampshire Attorney General, Director of Charitable Trusts

By: William Cullimore, May 2, 1995

Stipulation approved. Decree in accordance therewith.

Presiding Justice

Date: May 8, 1995

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SAMPLE VOUCHER FORM

TOWN OF PEMBROKE
TRUSTEES OF TRUST FUND

APPLICATION FOR PAYMENT FROM TRUST

(All requests for payment must be submitted using this form)

Submitted by: _____
(Selectmen, School Board, Water Commissioners, Sewer Commissioners, Library Trustees, Elementary School Principals, Scholarship Award Committee.)

Date request submitted: _____ Date payment required: _____

Printed name of person submitting request: _____

Title of person submitting request: _____

Deliver payment to: _____

Signature of person submitting request: _____

Submitted pursuant to:

____ Action as agent to expend.

____ Warrant article approved at town/school district annual or special meeting.

____ This request is for only a portion of the amount authorized by the article.

____ This request is for the total amount authorized by the article in question or represents the final payment in a series.

Amount of distribution requested: _____

Name of fund from which payment is requested: _____

Date and warrant article number which authorizes this request: _____

or

Date and minutes of meeting by boards & commissions authorizing withdrawal _____

(Enter the date of the meeting and attach a copy of approved minutes documenting authorization.)

All payments will be made by check unless special arrangements have been made in advance with the trustees of trust funds. Trust requests are received by the trustees on Thursdays. Allow 5 to 12 business days for delivery of payment.

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Legal Briefs

Town Cemeteries – Does a Private Cemetery Satisfy the Law?

No, actually, it doesn't. Towns are required under RSA 289:2 to provide at least one public cemetery. Town cemeteries are operated and maintained by the cemetery trustees, who may hire a sexton to perform or oversee the work, RSA 289:2; RSA 289:7. Importantly, a town is only permitted to raise and appropriate funds to maintain "municipal public cemeteries within its boundaries...." RSA 289:4. The only provision in the law for a town to pay for maintenance of a private cemetery involves cemeteries which have been abandoned or neglected for at least 20 years. RSA 289:19.

What if a town does not have a town cemetery – can it donate money to the owners of private cemeteries in town instead? Well, not simply as a donation because there is no authorization in the law to do that. New Hampshire municipalities get all of their power from the State legislature. "[T]owns only have such powers as are expressly granted to them by the legislature and such as are necessarily implied or incidental thereto." *Girard v. Allenstown*, 121 N.H. 268 (1981). This means that when a question arises about whether the town or a local official has authority to act, the municipality and the official must look to a law that grants the authority to act. It is not enough to conclude that there is no law prohibiting the action; if there is no statute that grants municipalities a particular power, they do not have it.

As a general rule, town money can't be granted to or spent on a benefit for a private person, company or organization unless that private person takes on some obligation to benefit the town. See *Clapp v. Town of Jaffrey*, 97 N.H. 456 (1952); *Opinion of the Justices*, 88 N.H. 484 (1937). In other words, there must be a "quid pro quo" by which the town obtains something real in exchange for that public money. If the town simply donates money to the owner of a private cemetery, there is no guarantee that the cemetery will be open for the use of the town's citizens as RSA 289 intended.

So what to do? Interestingly, RSA 289:2 states that the town must "provide" at least one public cemetery, but does not seem to require that the town own it. Therefore, if a town did not wish to lay out its own cemetery, it could purchase the private existing cemetery from the owner and maintain it as a public cemetery. Alternatively, a town could enter into a lease with the private cemetery owner. Such a lease might provide that the town pay rent to the cemetery owner, in return for which the town may operate and maintain a public cemetery on the property. The law does not specifically contemplate such an arrangement, but it seems likely that if the lease allowed the town sufficient authority to operate the public cemetery it would satisfy the intent of the statute.

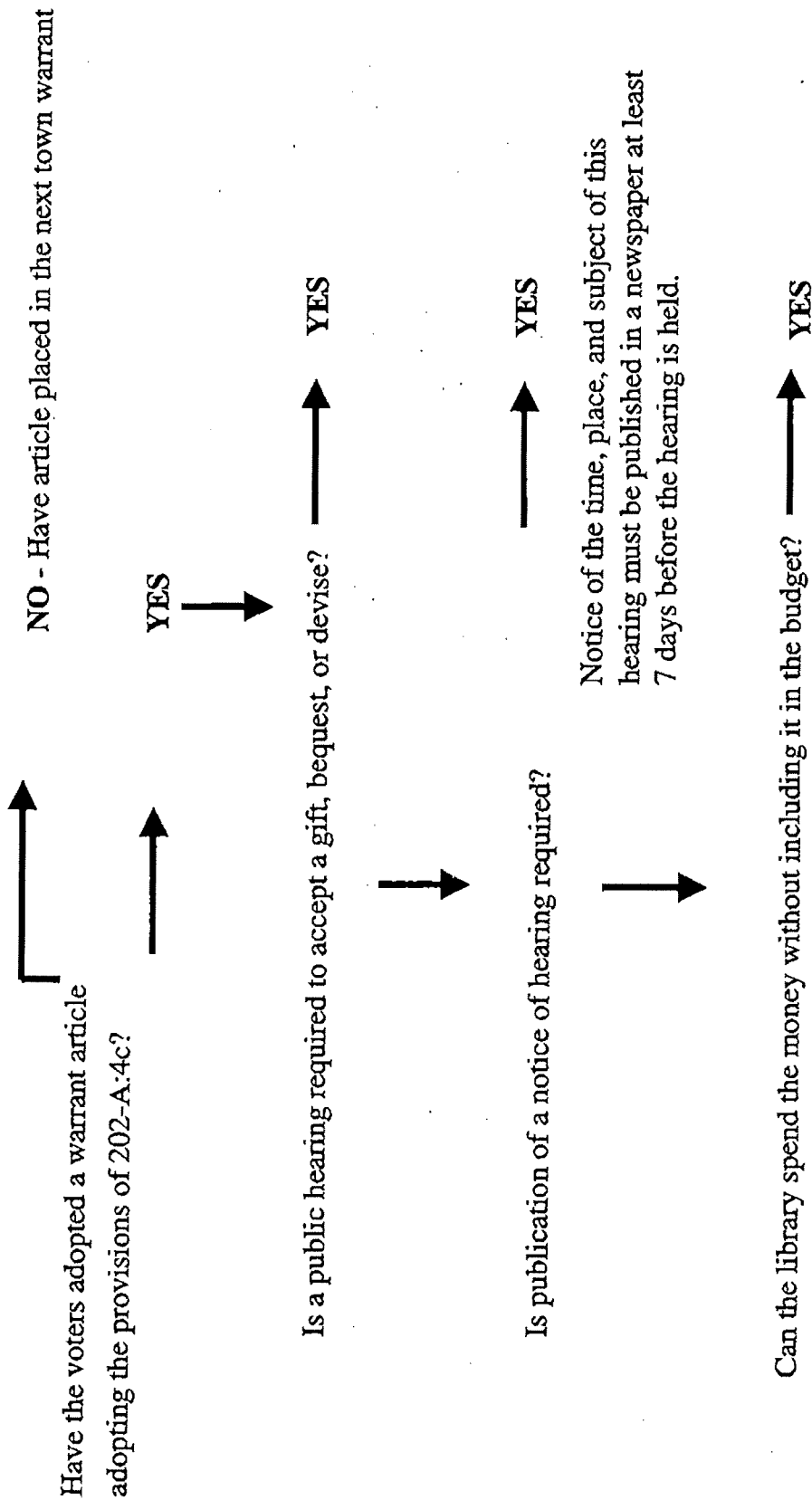
C. Christine Fillmore, Staff Attorney
February 2010

Local officials in New Hampshire Municipal Association-member municipalities may contact LGC's legal services attorneys for more information on this and other topics of interest Monday through Friday, from 8:30 a.m. to 4:30 p.m., by calling 800.852.3368, ext. 384. School officials should contact the New Hampshire School Boards Association attorney at 800.272.0653.

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**ACCEPTANCE OF GIFTS, BEQUESTS, DEVISES AND
PERSONAL PROPERTY BY LIBRARY TRUSTEES**

RSA: 202-A:4C Trustees Authority to Accept and expend Gifts



As long as the money is expended in the same year it is received. If any money is not expended in that year it must be carried over and included in the budgeting process before it can be expended.

ACCEPTANCE OF GIFTS, BEQUESTS AND DEVISES
BY MUNICIPALITIES MODEL

GIFTS, DONATION OR BEQUEST RSA 31:19

Warrant Article - acceptance in the name of the town all gifts, bequests, and devises by voters at annual town meeting. The voters may also accept gifts, devises and bequests at a special town meeting.



Town meeting adopts, by warrant article, RSA 31:95 b, which permits Selectmen to accept all gifts, bequests and devises in the name of the town.



Town meeting adopts by, warrant article,

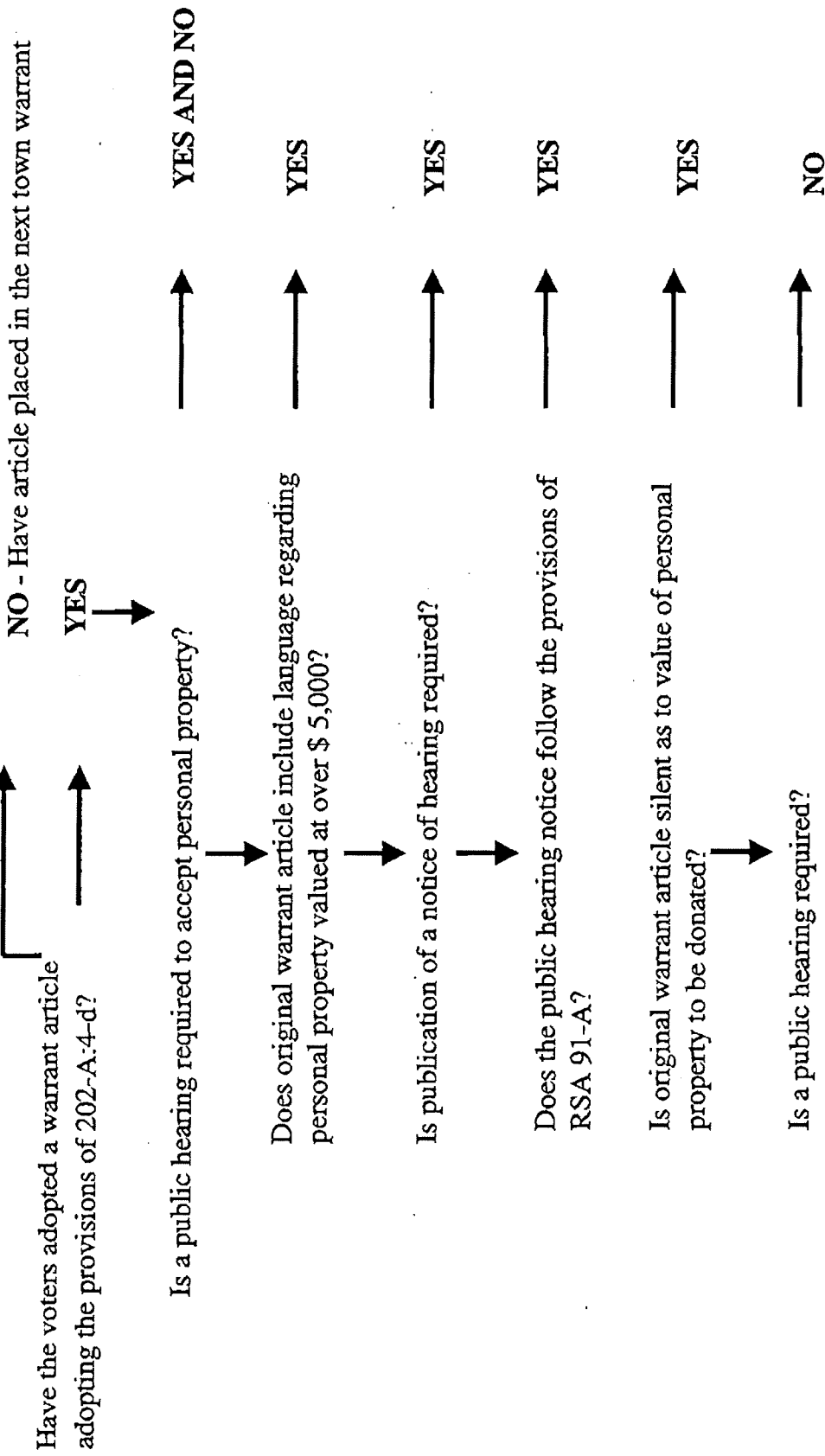
(1) RSA 202-A:4c which permits Library Trustees to accept gifts, bequests and devises made to the library specifically; pertains to cash, stocks, bonds, etc. and not to personal property.

(2) RSA 202-A:4-d which permits Library Trustees to accept gifts of personal property, other than money.

RSA 31:19 grants the authority for accepting gifts, bequests, and devises to the legislative body (voters) of a town. Voters may delegate this authority to the Board of Selectmen under RSA 31-95-b. The Selectmen then have the authority to accept gifts, bequests, and devises in the name of the town for all purposes. The voters may delegate the authority to accept cash and personal property for the library to the Library Trustees under RSA 202-A:4-c and 4-d. *See next page for specific requirements of these laws.*

**ACCEPTANCE OF GIFTS, BEQUESTS, DEVISES AND
PERSONAL PROPERTY BY LIBRARY TRUSTEES**

RSA: 202-A:4-d Trustees Authority to Accept Personal Property



NOTE: No acceptance of any personal property under the authority of this section shall be deemed to bind the town or library trustees to raise, appropriate, or expend any public funds for operation, maintenance, repair, or replacement of such personal property.

**GOFFSTOWN BOARD OF SELECTMEN
POLICY TO ACCEPT AND ESTABLISH TRUSTS FROM PRIVATE FUNDS
(RSA 31:19)**

Whereas, the legislative body granted the Board of Selectmen the authority until rescinded to take and hold in trust gifts, legacies and devises made to them for public purposes (RSA 31:19) at the 1995 Town Meeting;

Whereas, the Board of Selectmen desire to establish guidelines for the orderly acceptance and establishment of these trust funds;

Therefore, we the Board of Selectmen establish the following guidelines:

1. **ACCEPTANCE PROCEDURE:** The Board of Selectmen will hold a public hearing on all gifts, donations and trusts of \$5,000 or more noticing the amount and purpose; for amounts valued under \$5,000 the Board of Selectmen will note on their agenda the amount of the donation and the public purpose on a weekly meeting agenda.
2. **GIFT INSTRUMENT** (i.e. trust, will, letter, or other document signed by the original donor) should include the following:
 - a. Purpose: Gift instrument specifies the public purpose of the gift.
 - b. Restrictions: Gift instrument indicates whether the donation is:
 - (1) unrestricted -- principal and income can be fully used for the specified public purpose;
 - (2) temporarily restricted -- restricted only until the specified public purpose is achieved ex. Grasmere Statue Fund; or
 - (3) permanently restricted -- can only expend the income (not principal) for the specified purpose ex. Mildred Stark Trust Fund for Town Hall.
 - c. Authority to Expend: Gift instrument defines who has the authority to expend the money. Typically if the money is left to the Town, then the governing body i.e. Board of Selectmen is designated as the authority to expend.
3. **ADMINISTRATION:** In accordance with RSA 31:37 these trusts are managed by the Trustees of the Trust Funds.

GOFFSTOWN BOARD OF SELECTMEN

David Pierce, Chairman

Collis Adams

Scott Gross, Vice Chairman

Phillip D'Avanza

Mark Lemay

Date: February 25, 2013

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TRUSTEES OF THE TRUST FUNDS EAST KINGSTON, NEW HAMPSHIRE

INTERNAL CONTROLS POLICY

REQUIREMENT

GASB 34; RSA 31:33

The Government Accounting Standards Board (GASB) Rule #34 states: *"Internal control issues. A system of strong internal controls over assets is essential to minimize the risk of loss or misuse."* The annual audit of the Trustees of Trust Funds (hereinafter "Trustees") as an agency of government includes examination of their system of internal controls.

TRUSTEE FIDUCIARY RESPONSIBILITY

"Fiduciary (OED) - (L. *fiduciarius*) - A. *adj.* 1. a. Of a person: Holding something in trust. B. Of or pertaining to a trustee or trusteeship 1795 B. *sb.* 1. One who holds anything in trust; a trustee 1631".

Trustees in New Hampshire are held to standards described by the State Attorney General in terms of duties, that is, the duties of loyalty, of care, and to manage.

TRUST FUND DISTINCTIONS

RSA 31:19; RSA 31:19-a; RSA 31:25, 27, 31

Trustees administer two different kinds of trusts. Firstly, there are those created by the voters at Town Meeting, and secondly, those which are private gifts, legacies, and devices. The two are very different from each other in how they are managed, and what can or cannot be done with them by the Trustees.

Every Trustee action is empowered and limited by statute. Where Trustee discretion is permitted, agreed formal procedure is warranted:

ORGANIZATION AND ADMINISTRATION

RSA 31:22; RSA 31:35; RSA 91-A:2, 3, 4

Trustee positions-

Bookkeeper. Annually, at the first meeting after Town Meeting, the Trustees shall elect a member as bookkeeper to maintain the trust accounts. He or she shall maintain current MS9&10s from periodic trust fund financial statements. The bookkeeper shall prepare meeting agendas, post meeting notices, and organize meeting materials for the Trustees' review. He or she shall prepare periodic and annual reports for Trustee review and approval.

Secretary. Annually, at the first meeting after Town Meeting, the Trustees shall select a member to prepare minutes of each meeting for the official record. Minutes shall be reviewed and approved in subsequent meetings. The secretary shall act as Trustee liaison to other municipal bodies.

Trustee meetings. Meetings shall conform to statutory requirements regarding so-called "Right to Know", and shall be the only forum for the Trustees to take decisions in regard to fiduciary and administrative matters.

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RECORD KEEPING

RSA 31:34; RSA 33-A; RSA 91-A

All Trustees of the Trust Funds records shall be maintained in the Trustees Office, East Kingston Town Office. The records shall be kept securely, and public access shall be honored as requested.

Meeting minutes. Maintained permanently. Each meeting minutes record shall include materials as attachments which were addressed in the meeting agenda.

Correspondence. Maintained with related documents, and maintained by year as statute describes.

Funds management-

Periodic financial statements. Financial institutions shall be required to provide monthly statements of all funds maintained by the Trustees.

Funds receipts. Private or public funds received by the Trustees shall be acknowledged in the course of a regular meeting. Supporting documentation and justification shall be reviewed for sufficiency, and a plan for disposition confirmed. The bookkeeper shall effect deposit of monies as the Trustees decide.

Funds disbursements. Requests received by the Trustees for private or public funds shall be considered in the course of a regular meeting. Supporting documentation and justification shall be reviewed for sufficiency, and if agreed, a plan for disbursement confirmed. The bookkeeper shall effect disbursement of monies as the Trustees decide.

Transaction documentation. Trustees shall require all transaction requests to be justified in accordance with the provisions of the particular trust. Documentation can include Town Meeting vote minutes, terms of a private trust, and confirmation of the requestor's authority to receive or disburse trust monies.

Reconciliation. The bookkeeper shall update the MS9&10 on a monthly basis from periodic financial statements, ensuring that all sums and transactions are accurately accounted for. The Trustees shall review the monthly update in the course of regular meetings.

Periodic financial statements and a record of each transaction, together with supporting documentation, shall be maintained as discreet files by year to facilitate annual audit. The body of documentation consisting of Trustee meeting minutes, transaction supporting documentation, financial statements, and reports (e.g. MS9&10) constitutes the "record book, which shall be open to the inspection of all persons..."

FUNCTIONAL REVIEWS

RSA 31:25; GASB 34

The Investment Policy is reviewed at least once a year, and submitted to the Attorney General with the annual reports (MS9&10).

The Internal Controls Policy currency is scrutinized annually in the course of audit.

AGREED:

Vytautas Kasinskas, '10

James Roby Day, Jr. '11

Joan Witkowski Kasinskas '12

Drafted 12 February 2009
Adopted 4 June 2009

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INVESTMENT POLICY MONT VERNON TRUSTEES OF TRUST FUNDS

Adopted November 11, 2009

RECEIVED

MAR 29 2010

The Mont Vernon Trustees of Trust Funds will adhere to all investment regulations set forth by the State of New Hampshire under the Prudent Man Rule.

CHARITABLE TRUSTS UN

All trust funds are to be invested to insure that the purchasing power of the principal is maintained, while providing a level of income sufficient to support the programs intended to be financed under the terms of the trust documents. The allocation of assets under management shall be approximately fifty percent in certificates of deposits or other fixed income investments and approximately fifty percent in equity-based investments, based on current value. Where a mutual fund is a combination of both equities and fixed income instruments the investment manager will report the portion that falls into each category for the purposes of tracking our asset allocation. Assuming fluctuating market conditions will occur, the overall allocation can vary by +/- 10 percent before our investment manager will be required to make a recommendation as to the best strategy to maintain the desired range. The Trustees will meet at least once a year with our RBC Wealth Management team to consider the recommendations in order to determine whether action will be taken to reallocate the investments.

All dividends and capital gains will be received in cash rather than being reinvested in kind to provide expendable income. Cash balances in money market accounts and the New Hampshire Public Deposit Investment Pool will be maintained at a minimum level necessary for impending expenditures as allowed by individual trusts.

Awards from the income of Skenderian Trusts III will be based on that trusts previous year's income minus the funds returned to Principal of that Trust. Skenderian Trusts I, II, IV and V have no Principal reinvestment clause so all of the current income can be spent. All income in the Mont Vernon Public Library Trust can be spent after twenty percent of each year's income is returned to Principal. Expenditures from Skenderian Trust I shall be upon the recommendation of the Mont Vernon Welfare Officer.

All expenditures will have proper request vouchers. Checks will be written, whenever possible, to the group being given the award and they will then pay for the services rendered.

Capital Reserve funds will be kept either in Certificates of Deposit or in an MBIA account. Each Capital Reserve account will be invested separately.

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**TOWN OF FITZWILLIAM
TRUSTEES OF FITZWILLIAM TRUST FUNDS
C/o Selectmen's P. O. Box 725
Fitzwilliam, New Hampshire 03447**

December 21, 2009

ANNUAL INVESTMENT POLICY STATEMENT

GENERAL

The overall portfolio's aim is to keep the level of risk to the principal low while maintaining a modest level of income.

The Investment Policy set forth is intended to;

Establish a clear understanding of the Trust Fund's objectives.

Provide guidance and direction to the Trust Fund's Manager.

Provide a basis to monitor and evaluate investment performance.

The Manager of the three accounts—Capital Reserves, Common Fund, and Retained Income—is Citizens Bank Wealth Management.

MEETINGS

The investment policy is reviewed annually at a posted meeting of the three trustees with representatives from Citizens Bank Wealth Management. In addition, Citizens Bank Wealth Management provides the trustees with monthly reports that are reviewed individually by the trustees without a formal, posted meeting.

CAPITAL RESERVES ACCOUNT

INVESTMENT OBJECTIVE

The investment objective for Capital Reserves is income only. The modest growth from the yield of U. S. Government bonds fits our goal of securing the capital in this account.

ASSET ALLOCATION

The asset allocation for the Capital Reserves is super simple.

Cash and cash equivalents: up to 100%

Cash may be in a money market. Up to 25% of this account may be in U. S. Government Securities of 3-years or less, as appropriate based on market trends.

FIXED INCOME and COMMON STOCKS are not applicable.

PERFORMANCE MEASUREMENT

30-day treasury

Consumer Price Index (CPI), to adjust for inflation.

COMMON FUND ACCOUNT

INVESTMENT OBJECTIVE

The investment objective for the Common Fund is growth and income. This fund has a primary total return objective of exceeding the long-term rate of inflation.

ASSET ALLOCATION

The asset allocation guideline for the Common Fund is to have 0 - 10% in cash and cash equivalents, 30 - 50% in fixed income, 50 - 70% in equities, and 0 - 10 % in inflation hedge funds. Exposure to all asset classes may be through individual securities, mutual funds, and exchange traded funds. The current (November 30, 2009) asset allocation is;

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Cash and cash equivalents	0.9%	Fixed Income	36.7%
Equities	%	Hedge	0.0%

FIXED INCOME

All fixed income securities have a minimum quality rating of Baaa3 or BBB (investment grade) by Moody's or by the Standard and Poor's Corporation. Concentration in any one issuer shall not exceed 10% of the account with the standard exceptions of U. S. Government bonds.

COMMON STOCKS

The equity investments should be in companies that have a proven record to earnings growth, strong fundamentals, and good valuations. The majority of the equity portion should be in large capitalization companies, and some in mid cap, and some in small cap. The equity portion of this account should be broadly diversified. The maximum exposure to any one individual security should not exceed 5% of this account.

PERFORMANCE MEASUREMENT

The equity performance is measured against Standard and Poor's 500. The fixed income performance is measured against Lehman Inter Govt/Credit. The cash performance is measured against Merrill Lynch 3-Month T-Bills.

RETAINED INCOME ACCOUNT

INVESTMENT OBJECTIVE

The investment objective for Retained Income is growth and income. This fund has a primary total return objective of exceeding the long-term rate of inflation.

ASSET ALLOCATION

The asset allocation guideline for Retained Income is to have 0 - 10% in cash and cash equivalents, 30 - 50% in fixed income, 50 - 70% in equities, and 0 - 10 % in inflation hedge funds. Exposure to all asset classes may be through individual securities, mutual funds, and exchange traded funds. The current (November 30, 2009) asset allocation is:

Cash and cash equivalents	0.7%	Fixed Income	34.1%
Equities	%	Hedge	0.0%

FIXED INCOME

All fixed income securities have a minimum quality rating of Baaa3 or BBB (investment grade) by Moody's or by the Standard and Poor's Corporation. Concentration in any one issuer shall not exceed 10% of the account with the standard exceptions of U. S. Government bonds.

COMMON STOCKS

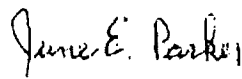
The equity investments should be in companies that have a proven record to earnings growth, strong fundamentals, and good valuations. The majority of the equity portion should be in large capitalization companies, and some in mid cap, and some in small cap. The equity portion of this account should be broadly diversified. The maximum exposure to any one individual security should not exceed 5% of this account.

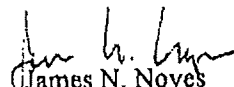
PERFORMANCE MEASUREMENT

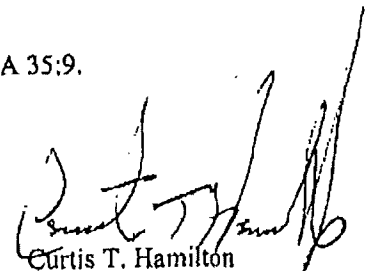
The equity performance is measured against Standard and Poor's 500. The fixed income performance is measured against Lehman Inter Govt/Credit. The cash performance is measured against Merrill Lynch 3-Month T-Bills.

This investment policy is reviewed annually to be in compliance with RSA 35:9.

Signed this day of Dec. 28, 2009 by:


June E. Parker


James N. Noyes


Curtis T. Hamilton

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Lempster Trustees of Trust Funds
2009 Investment Policy

RECEIVED
FEB 24 2009
CHARITABLE TRUSTS UNIT

All town and school funds invested by the Lempster Trustees of Trust Funds shall be in the MBIA through New Hampshire Public Deposit Investment Pool. Should the trustees decide during the year that it would be a wiser investment to put some of the funds in a Certificate of Deposit, this could be done by a vote of the trustees.

Barbara R. Richards
[Signature]

Feb. 5, 2009
Date

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TOWN OF MADBURY, NEW HAMPSHIRE
TRUSTEES OF TRUST FUNDS
INVESTMENT POLICY

RECEIVED

MAR 31 2010

CHARITABLE TRUSTS UNIT

I. SCOPE

This investment policy applies to all financial assets administered by the Town of Madbury's board of 3 Trustees of Trust Funds. The portfolio will be managed in accordance with the Prudent Person rule. The definition of prudence is based on RSA 31:25-b as follows:

"a prudent investment is one which a prudent man would purchase for his own investment having primarily in view the preservation of the principal and the amount and regularity of the income to be derived therefrom."

II. INVESTMENT OBJECTIVE

Safety of principal is the foremost objective within the portfolio. The Trustees will seek to maximize income within the constraints of this objective and state law. This objective is consistent with the desire for current income and modest growth.

III. ALLOCATION

The Trustees will continue to monitor the asset allocation and investment decisions of the New Hampshire Public Deposit Investment Pool (NHPDIP). The Trustees have established accounts with NHPDIP for the Trust and Capital Reserve funds they administer.

IV. PERFORMANCE MEETINGS

The Trustees shall meet to review the portfolio at least three times a year. Performance results will be reviewed as well as future goals.

V. POLICY REVIEW

The Trustees will review this Investment Policy on an annual basis.

Approved by the Town of Madbury, Trustees of Trust Funds:

Date: 3/29/2010

R. Gault
Molly Hodgson Smith
Paul C. Hodgson

FROM THE IRS WEBSITE:

Governmental Information Letter

Government entities are frequently asked to provide a tax-exempt number or "determination" letter to prove its status as a "tax-exempt" or charitable entity. For example, applications for grants from a private foundation or a charitable organization generally require this information as part of the application process. In addition, donors frequently ask for this information as substantiation that the donor's contribution is tax deductible, and vendors ask for this to substantiate that the organization is exempt from sales or excise taxes. (Exemption from sales taxes is made under state law rather than Federal law.)

The Internal Revenue Service does not provide a tax-exempt number. A government entity may use its Federal TIN (taxpayer identification number), also referred to as an EIN (Employer Identification Number), for identification purposes.

Governmental units, such as states and their political subdivisions, are not generally subject to federal income tax. Political subdivisions of a state are entities with one or more of the sovereign powers of the state such as the power to tax. Typically they include counties or municipalities and their agencies or departments. Charitable contributions to governmental units are tax-deductible under section 170(c)(1) of the Internal Revenue Code if made for a public purpose.

As a special service to government entities, IRS will issue a "governmental information letter" free of charge. This letter describes government entity exemption from Federal income tax and cites applicable Internal Revenue Code sections pertaining to deductible contributions and income exclusion. Most organizations and individuals will accept the governmental information letter as the substantiation they need.

Government entities can request a governmental information letter by calling 1-877-829-5500.

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MUNICIPALITY	AUDITOR	SAU
ACWORTH	JD	60
ALBANY	MC	09
ALEXANDRIA	MC	04
ALLENSTOWN	JD	53
ALSTEAD	JD	60
ALTON	SG	72
AMHERST	SG	39
ANDOVER	SG	46
ANTRIM	SG	01
ASHLAND	MC	02
ATKINSON	JD	55
AUBURN	MC	15
BARNSTEAD	SG	86
BARRINGTON	MC	74
BARTLETT	MC	09
BATH	JD	23
BEDFORD	SG	25
BELMONT	SG	80
BENNINGTON	SG	01
BENTON	JD	23
BERLIN	JD	03
BETHLEHEM	JD	35
BOSCAWEN	SG	46
BOW	MC	67
BRADFORD	SD	65
BRENTWOOD	SD	16
BRIDGEWATER	MC	04
BRISTOL	MC	04
BROOKFIELD	MC	49
BROOKLINE	SG	41
CAMPTON	MC	48
CANAAN	SG	62
CANDIA	MC	15
CANTERBURY	SG	80
CARROLL	JD	36
CENTER HARBOR	MC	02
CHARLESTOWN	JD	60
CHATHAM	MC	09
CHESTER	MC	82
CHESTERFIELD	SD	29
CHICHESTER	JD	53
CLAREMONT	JD	06
CLARKSVILLE	JD	07
COLEBROOK	JD	07
COLUMBIA	JD	07
CONCORD	SG	08
CONWAY	MC	09
CORNISH	JD	06
CROYDON	SG	43
DALTON	JD	36
DANBURY	MC	04
DANVILLE	JD	55
DEERFIELD	JD	53
DEERING	SG	34
DERRY	JD	10
DORCHESTER	SG	62
DOVER	MC	11
DUBLIN	SG	01
DUMMER	JD	20

MUNICIPALITY	AUDITOR	SAU
DUNBARTON	MC	67
DURHAM	SG	05
EAST KINGSTON	SD	16
EASTON	JD	35
EATON	MC	09
EFFINGHAM	MC	49
ELLSWORTH	MC	48
ENFIELD	SG	62
EPPING	MC	14
EPSOM	JD	53
ERROL	JD	20
EXETER	SD	16
FARMINGTON	JD	61
FITZWILLIAM	SD	93
FRANCESTOWN	SG	01
FRANCONIA	JD	35
FRANKLIN	JD	18
FREEDOM	MC	13
FREMONT	MC	83
GILFORD	MC	73
GILMANTON	SG	79
GILSUM	SD	93
GOFFSTOWN	JD	19
GORHAM	JD	20
GOSHEN	JD	71
GRAFTON	SG	62
GRANTHAM	SG	75
GREENFIELD	SG	01
GREENLAND	MC	50
GREENVILLE	SG	87
GROTON	MC	04
HALE'S LOCATION	MC	97
HAMPSTEAD	JD	55
HAMPTON	SD	90
HAMPTON FALLS	SD	21
HANCOCK	SG	01
HANOVER	SG	70
HARRISVILLE	SD	29
HART'S LOCATION	MC	09
HAVERHILL	JD	23
HEBRON	MC	04
HENNIKER	SG	24
HILL	JD	18
HILLSBOROUGH	SG	34
HINSDALE	SG	92
HOLDERNESS	MC	48
HOLLIS	SG	41
HOOKSETT	MC	15
HOPKINTON	SG	66
HUDSON	SG	81
JACKSON	MC	09
JAFFREY	SG	47
JEFFERSON	JD	36
KEENE	SD	29
KENSINGTON	SD	16
KINGSTON	MC	17
LACONIA	MC	30
LANCASTER	JD	36
LANDAFF	JD	35

MUNICIPALITY	AUDITOR	SAU
LANGDON	JD	60
LEBANON	SG	88
LEE	SG	05
LEMPSTER	JD	71
LINCOLN	JD	68
LISBON	JD	35
LITCHFIELD	SG	27
LITTLETON	JD	84
LONDONDERRY	JD	12
LOUDON	SG	46
LYMAN	JD	35
LYME	SG	76
LYNDEBOROUGH	SG	63
MADBURY	SG	05
MADISON	MC	13
MANCHESTER	JD	37
MARLBOROUGH	SD	29
MARLOW	SD	29
MASON	SG	89
MEREDITH	MC	02
MERRIMACK	SG	26
MIDDLETON	JD	61
MILAN	JD	20
MILFORD	SG	40
MILTON	MC	64
MONROE	JD	77
MONT VERNON	SG	39
MOULTONBOROUGH	MC	45
NASHUA	SG	42
NELSON	SD	29
NEW BOSTON	JD	19
NEW CASTLE	MC	50
NEW DURHAM	MC	49
NEW HAMPTON	MC	04
NEW IPSWICH	SG	87
NEW LONDON	SD	65
NEWBURY	SD	65
NEWFIELDS	SD	16
NEWINGTON	MC	50
NEWMARKET	JD	31
NEWPORT	SG	43
NEWTON	MC	17
NORTH HAMPTON	SD	21
NORTHFIELD	SG	59
NORTHUMBERLAND	JD	58
NORTHWOOD	MC	44
NOTTINGHAM	MC	44
ORANGE	SG	62
ORFORD	JD	78
OSSIPEE	MC	49
PELHAM	SG	28
PEMBROKE	JD	53
PETERBOROUGH	SG	01
PIERMONT	JD	23
PITTSBURG	JD	07
PITTSFIELD	SG	51
PLAINFIELD	JD	32
PLAISTOW	JD	55
PLYMOUTH	MC	48

MUNICIPALITY	AUDITOR	SAU
PORTSMOUTH	MC	52
RANDOLPH	JD	20
RAYMOND	MC	33
RICHMOND	SD	93
RINDGE	SG	47
ROCHESTER	MC	54
ROLLINSFORD	MC	56
ROXBURY	SD	93
RUMNEY	MC	48
RYE	MC	50
SALEM	JD	57
SALISBURY	SG	46
SANBORNTON	SG	59
SANDOWN	JD	55
SANDWICH	MC	02
SEABROOK	SD	21
SHARON	SG	01
SHELBURNE	JD	20
SOMERSWORTH	SG	56
SOUTH HAMPTON	SD	21
SPRINGFIELD	SD	65
STARK	JD	58
STEWARTSTOWN	JD	07
STODDARD	SG	24
STRAFFORD	MC	44
STRATFORD	JD	58
STRATHAM	SD	16
SUGAR HILL	JD	35
SULLIVAN	SD	96
SUNAPEE	JD	85
SURRY	JD	91
SUTTON	SD	65
SWANZEY	SD	93
TAMWORTH	MC	13
TEMPLE	SG	01
THORNTON	MC	48
TILTON	SG	59
TROY	SD	93
TUFTONBORO	MC	49
UNINC. PI. COOS	SD	98
UNITY	JD	06
WAKEFIELD	MC	64
WALPOLE	JD	60
WARNER	SD	65
WARREN	JD	23
WASHINGTON	SG	34
WATERVILLE VALLEY	MC	48
WEARE	SG	24
WEBSTER	SG	46
WENTWORTH	MC	48
WESTMORELAND	SD	29
WHITEFIELD	JD	36
WILMOT	SD	65
WILTON	SG	63
WINCHESTER	SG	94
WINDHAM	SG	95
WINDSOR	SG	34
WOLFEBORO	MC	49
WOODSTOCK	JD	68



Department of Revenue Administration
Municipal & Property Division – Municipal Bureau
P.O. Box 487
Concord, NH 03302-0487
(603) 230-5090

Trustee of Trust Funds - Annual Reporting Overview & Instructions

Overview

Pursuant to the provisions of RSA § 31:34, trustees of trust funds are required to keep a proper record of all trust funds in their custody. It is necessary that a separate record be maintained for each individual trust fund with principal and income transactions appropriately segregated and accounted.

- **Investment Policy:** RSA § 31:25 requires trustees to adopt an investment policy which must be reviewed and confirmed annually. A copy of this policy must be filed with the Director of Charitable Trusts (RSA § 31:25, 34:5, 35:9).
- **Professional Banking or Brokerage Assistance:** RSA § 31:38-a, III and 35:9-a, enable trustees to seek professional banking or brokerage assistance in the performance of their duties as trustees. Expenses attributable to the management and investment of trust (RSA § 31:38-a, III) or capital reserve fund (RSA § 35:9-a, if adopted by the legislative body, e.g. town meeting) resources may be charged against the income only (i.e. not principal) of the funds involved. The trustees should indicate the total amount of money paid for fees and expenses of professional banking and brokerage assistance during the accounting period in the appropriate space at the bottom of the MS-10 form. It is recommended the trustees keep evidence of any bank and brokerage charges.
- **Other Expenses:** Only the expenses of professional banking or brokerage assistance may be charged to the trust funds. Other expenses of the town trustees "...shall be charged as incidental town charges." (RSA § 31:24) The bookkeeper of the trustees shall receive such compensation as the town meeting may determine (RSA § 31:35). Other costs associated with the operation of the town trustees shall continue to be the responsibility of the respective towns.
- **Reporting Period:** The accounting period for trustees of trust funds in towns operating on the calendar year basis is from January 1 to December 31 (RSA § 31:94). In towns which have adopted the optional fiscal year basis of accounting (RSA § 31:94-a), the reporting period runs from July 1 to June 30. The accounts of the trustees must reflect all receipts and expenditures for the appropriate reporting period.
- **Reporting Valuation:** The value of stocks, bonds and other investments reported by trustees in their annual reports is to be stated at cost of acquisition (RSA 31:29). Increases or decreases in the market value of the principal of securities held by trustees are listed near the end of these reports. Gains and losses on securities are recognized in the accounts ONLY when any actual sale or disposition occurs.
- **Annual Examination (Audit) of Trustees' Accounts:** RSA § 31:33 prescribes that accounts of the trustees of trust funds be audited annually by the auditor(s) of the town. The report of the auditor(s) must be printed in the annual town report. The legislative body (town meeting) of a town may authorize the printing of the reports of the trustees and of the auditor's report of those accounts in summary form rather than in full detail in the annual town report (RSA § 31:33, II).

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Trustee of Trust Funds – DRA Annual Reporting Instructions (*continued*)

- **Annual Reporting:** The trustees must publish, in detail, a report of all other trust and capital reserve funds in their custody in the Town Report. Forms MS-9 and MS-10, as prescribed by the Commissioner of the Department of Revenue Administration, are to be used by all trustees of trust funds in making the annual reports of trust and capital reserve funds, and are the recommended forms for publication in Town Reports. Trustees of trust funds must file a copy of each of these reports with the Attorney General (RSA § 31:38) and with the Commissioner of Revenue Administration. To fulfill this obligation, the MS-9 and MS-10 are to be submitted as follows:

Calendar Year Submission Matrix

Form	Due Date	Electronic Copy Submission	Print, Sign, Scan all pages* & Submit to:	Mail a signed hard copy of all pages* to:
MS-9	March 1	DRA Auditor	DRA Auditor or upload to MTRSP	Department of Justice Office of the Attorney General 33 Capitol Street Concord, NH 03301-6397
			Municipal Finance Officer	
			School Business Administrator (if applicable)	
MS-10	March 1	DRA Auditor	DRA – MTRSP School Finance	Department of Justice Office of the Attorney General 33 Capitol Street Concord, NH 03301-6397
			Municipal Finance Officer	
			School Business Administrator (if applicable)	

* Be sure to include ALL pages of the completed form, including the SIGNED signature page.

Optional Fiscal Year Submission Matrix

Form	Due Date	Electronic Copy Submission	Print, Sign, Scan all pages* & Submit to:	Mail a signed hard copy of all pages* to:
MS-9	September 1	DRA Auditor	DRA Auditor or upload to MTRSP	Department of Justice Office of the Attorney General 33 Capitol Street Concord, NH 03301-6397
			Municipal Finance Officer	
			School Business Administrator (if applicable)	
MS-10	September 1	DRA Auditor	DRA Auditor or upload to MTRSP	Department of Justice Office of the Attorney General 33 Capitol Street Concord, NH 03301-6397
			Municipal Finance Officer	
			School Business Administrator (if applicable)	

* Be sure to include ALL pages of the completed form, including the SIGNED signature page.

Form MS-9 – Report of Trust and Capital Reserve Funds

Trustee of Trust Funds – DRA Annual Reporting Instructions (*continued*)

Form MS-9 is used to report the status of each individual trust and capital reserve fund held in the custody of the trustees.

- Insert only one trust fund account on each column provided. Each page contains space for five (5) individual trust funds with the ability to add additional pages to report up to a total of one hundred (100) funds. The aggregate grand total of end of year principal and interest for each fund will automatically be calculated and populate a field on the first page.
- Your report of trust and capital reserve funds is not complete unless each fund in your custody has been recorded on form MS-9 and properly accounted, even if it has a zero balance. A fund is not closed until the municipality votes to discontinue it.
- When trust funds are invested in common, it is suggested that you list all such trust funds first in your report. If more than one group of common investments is maintained, you should segregate and list all such groups separately before listing individually invested trust funds. A total of all trust funds should be inserted before listing capital reserves (RSA § 35) and general fund expendable trust funds (RSA § 31:19-a) that you may have in your custody.
- Please note that pursuant to RSA § 35:9, the money in each capital reserve fund shall be maintained separately on the books of the town. The assets of such funds may be pooled in order to invest in a broader range of investments to maximize growth and mitigate risk. The monies in capital reserve funds are restricted to investments authorized in RSA 35:9.

The MS-9 has been designed to disclose the following information in the section entitled, *Report of the Trust Funds*:

- The **DATE OF CREATION** of each trust fund;
- The **NAME** of each trust fund;
- The **TYPE** of fund;
- The **PURPOSE** of each trust fund;
 - **HOW** the unexpended principal and income is **INVESTED** (common fund, NHPDIP, or single investment). Trustees are permitted to invest individual trust funds in common under RSA § 31:25 and 31:25 a-d. However, each individual trust fund, including each perpetual care fund, must be listed on the MS-9. A separate report, form MS-10, must be filed detailing the stocks, bonds, certificates of deposit, etc. comprising the common fund investments. If all trust funds held in the custody of the Trustees are invested in the New Hampshire Public Deposit Investment Pool (NHPDIP), it is not necessary to complete form MS-10.
- The status of the **PRINCIPAL** in each trust fund. Columns are provided in this particular section to show the principal **BALANCE** at the **BEGINNING OF** the **YEAR**. The principal balance at the beginning of the year should match the principal balance at the end of the year. Also reported in this section are any **NEW FUNDS CREATED** the reporting period; any realized **GAINS OR LOSSES ON** sales of **SECURITIES** or any cash capital gains dividends received; any **WITHDRAWALS** made; and the principal **BALANCE** at the **END** of the reporting **YEAR**.

Trustee of Trust Funds – DRA Annual Reporting Instructions (*continued*)

- The status of the **INCOME** account of each trust fund. Columns are provided in this section to enter the income **BALANCE** at the **BEGINNING OF** the **YEAR**; the amount of **INCOME** received **DURING** the **YEAR** and what percentage of common trust investment income (if applicable); the amount of income withdrawn and **EXPENDED DURING** the **YEAR** for authorized purposes; and the income **BALANCE** at the **END** of the reporting **YEAR**.
- The last column represents the **GRAND TOTAL** of **PRINCIPAL** and **INCOME** balances at the end of the fiscal year. These balances are added together for the purpose of determining the amount of the surety bond required under RSA 41:6.

The amount in the Grand Total column should agree with the total amount of cash invested in bank deposits, stocks, bonds, or other legal investments.

The next section in the form, entitled *Principal Only*, lists the increases and decreases in the market value of the principal of the securities held. It may be used by Trustees to report the fair market value of each investment listed on the MS-10, including unrealized gain, at the end of the accounting period. This information may be obtained from financial publications or from your professional banker or broker.

Form MS-10 – Report of Common Trust Fund Investments

When the principal and/or accumulated income of separate trust funds are commingled and invested in common for the purpose of facilitating growth of investments or obtaining more reasonable income, the trustees of trust funds shall file form MS-10. **Only common trust fund investments are reported on this form.**

The sum of the itemized common trust fund investments listed on form MS-10 should agree with the total or totals of each group of common trust funds reported on form MS-9. Do not include on form MS-10, investments pertaining to individually invested trust funds.

The principal section should reflect the actual cost of acquisition of securities or other investments and does not include unrealized gains or losses. The market value of principal may be reported in the *Principal Only* section located near the end of this form. The total balance of principal at the beginning of the year should match the total balance of principal listed at the end of the previous year. There are rows provided to record increases or decreases arising during the fiscal year from the purchase or sale of securities, cash capital gains, and ordinary gains or losses on sale of securities. The book value for each type of investment at the end of the year should be shown in the column provided for that purpose. When unexpended income is also invested in common, appropriate information must be entered in the income section of form MS-10.

Municipal Bureau Assistance

Please see the schedule on the next page for a listing of Municipal Bureau auditor assignments. Any questions and all submissions should be addressed to your assigned auditor. The contact information of current municipal auditors is:

Michelle Clark	603-230-5091	michelle.clark@dra.nh.gov
Jamie Dow	603-230-5092	jamie.dow@dra.nh.gov
Stephanie Derosier	603-230-5096	stephanie.derosier@dra.nh.gov
Shelley Gerlarneau	603-230-5093	shelley.gerlarneau@dra.nh.gov

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