

# **TOWN of AMHERST**

## **Trustees of Trust Funds Reference Manual**

**February 2015 (rev. 1.0)**

# Town of Amherst Trustees of Trust Funds

## Reference Manual

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# Town of Amherst Trustees of Trust Funds

## Reference Manual

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# Town of Amherst

## Trustees of Trust Funds

### General Information and Policies

#### Duties and Responsibilities of the Trustees of Trust Funds

##### *Overview of Duties*

- *Invest funds prudently*
- *Control and monitor receipts and disbursement of funds*
- *Adopt Investment Policy annually*
- *Annual fund reporting to the State*
- *Hold periodic public meetings*

*The basic duties of the Trustees of Trust Funds (the “Trustees”) involve the collection, management and investment of trust and capital reserve assets, and the accumulation and distribution of income and principal amounts according to the trust/gift instrument or the Town/School District Meeting authority. The authority to administer Town trust funds is vested solely with the Trustees and the income from such funds cannot be remitted to the Selectmen for purposes contrary to the judgment of the Trustees. Trust funds include private gifts/bequests that have been accepted by the Selectmen, capital reserve funds, and trust funds that have been created at Town meeting or at the Amherst School District Meeting or as a result of warrant articles voted on favorably by the town.*

*Trust funds do not include the general working capital of the Town or bond proceeds.*

*Although the Trustees of Trust Funds oversee the perpetual trust funds created for ongoing cemetery maintenance, the Trustees are **not** responsible for the planning, development, care and maintenance of the Town’s cemeteries. The Town of Amherst has an elected Board of Cemetery Trustees.*

*Included in this reference manual is a Summary Fund Listing providing information on the various funds under the fiduciary responsibility of the Trustees. To the extent that it is available, original documentation is on file in the Town offices, or is archived on the Town website.*

## Trustee Calendar

<b>Schedule</b>	<b>Item/Task</b>
<i>As Required</i>	<i>Transaction Authorization – Trustees formally act upon requests for funds disbursements and/or contributions.</i>
<i>Quarterly</i>	<i>Investment Performance Review</i>
<i>Every 2 years</i>	<i>Investment Advisor Review – specific review of performance, personnel, strategy, research capabilities, organizational and business matters; determine whether request for proposal process should be undertaken.</i>
<i>As needed</i>	<i>Town staff to contact SAU# 39 office for copies of school district annual meeting minutes for information about action taken involving reserve and other trust funds. Town staff with cc: to Trustees to update Investment Advisor on upcoming year's not to exceed cash requirements.</i>
<i>Annually (Feb. or Mar. meeting)</i>	<i>Review draft warrant for Town Meeting for preview of any articles regarding capital reserve or other trust funds. The Trustees' review is advisory only as the Trustees do not hold decision-making authority over the language of the warrant articles.</i>
<i>Annually (Oct. meeting)</i>	<i>Discuss Trustee position expiring in March – determine whether incumbent is running; identify and recruit, as necessary.</i>
<i>Annually (Oct. meeting)</i>	<i>Review and adopt Investment Policy; Investment Policy filed annually with the NH Office of Attorney General – Charitable Trust Division</i>
<i>Annually (meeting following March Town meeting)</i>	<i>Trustees elect chair</i>
<i>Annually (May-June)</i>	<i>Annual Trustee Workshops hosted by NH Office of Attorney General – Charitable Trusts Division</i>
<i>Annually (late July)</i>	<i>Town staff to provide annual reports on Trustees' behalf to entities who have funds in custody of Trustees of Trust Funds (e.g. Amherst School District, Library Trustees, Cemetery Trustees)</i>
<i>Annually (Aug. meeting)</i>	<i>Review annual reports to be filed no later than September 1 with the NH Attorney General's Office – Charitable Trusts Division: MS-9, Report of Trust Funds, and MS-10, Report of Common Trust Investments. Town staff prepares the MS-9 and works with investment advisor to generate the MS-10.</i>

## ***Public Information and Right-to-Know Laws***

The Trustees, as a public body, are required to have open meetings under the law. As such, Trustee meetings are open to anyone, not just local residents. Meeting attendees may take notes, tape record or video, and take photographs; however, the Right-to-Know Law does not grant anyone the right to speak at the meeting. The Right-to-Know Law assures a right to attend, but does not guarantee a right to participate. Of course, public input may be invited a/o encouraged by the Trustees, at their discretion.

Trustee meetings must be noticed to the public at least twenty-four hours before the meeting (not counting Sundays and holidays). Meeting minutes must be kept of all public meetings and must be available within the following timeline:

- Draft minutes must be available within two weeks of the meeting
- Final minutes must be available within seven days after approved.

## ***Board Terms and Election***

The makeup of the Board of Trustees of Trust Funds is determined by RSA 31:22. There shall be three Trustees, unless Town Meeting votes to expand the Board to five Trustees. One Trustee shall be elected by a ballot each annual Town Meeting for a term of three years. Residents interested in serving as Trustees file with the Town Clerk's Office a month or so before Town Meeting so their name will appear on the Town Meeting ballot. Off-term vacancies shall be recommended by the Trustees of Trust Funds and approved by the Board of Selectmen.

The Board of Trustees of Trust Funds shall elect a chair at their first meeting following Town Meeting; generally, this position has been filled by the most senior Trustee.

### *Alternate Trustee*

*The Trustees shall recruit and appoint up to 2 alternate Trustees. The Alternate Trustee is welcome to attend all scheduled Trustee meetings. However, the Alternate Trustee does not have voting power unless the Alternate Trustee is replacing an absent Trustee. If a Trustee vacates his/her position, then the Alternate Trustee shall be eligible to replace that Trustee for the remaining term, subject to confirmation by the Board of Selectmen.*

## ***Town Staff Responsibilities***

*The Director of Administrative Services provides the Town staff support to the Board of Trustees of Trust Funds. Representative duties of Town staff include:*

- *Archive Trustee records with Town records*
- *Post and reconcile all financial activity to the Town's accounting records*
- *Prepare annual financial audit schedules and act as point person for annual audit of trust fund financial records*
- *Request information for all contributions and disbursements*
- *Publish meeting minutes*
- *Notice meetings*

## **Investment Policy**

### *Annual Review*

The Trustees must adopt an Investment Policy annually; a copy of the most recently adopted Investment Policy is attached. State law reads: “The Trustees shall formally adopt an investment policy for all investments made by them or by their agents for any trust funds in their custody in conformance with the provisions of applicable statutes. Such investment policy shall be reviewed and confirmed at least annually. A copy of the investment policy shall be filed with the attorney general.”

### *General Concepts*

In addition to the statutory requirements governing investment vehicles detailed in RSA 31:25 (for which the Trustees rely on outside investment management advice to insure compliance), there are some general concepts that have governed the way in which the Trustees have invested the Town’s funds:

1. Public funds, those created by the raising of taxes or the levying of user fees by the Town, cannot be commingled with private sources of funds (i.e., bequests, gifts, etc.).
2. Private expendable (i.e., current use gifts) funds should not be commingled with perpetual (i.e., endowment-type gifts) funds.
3. Capital reserve accounts shall be invested consistent with the approved investment policy.

## ***Professional Investment Management***

*As allowed under NH RSA 31:38-a, the Trustees have engaged an investment advisor to assist with (a) prudent and advantageous investment decisions; (b) compliance with State law as to what investment vehicles are allowed or not allowed; and (c) preparation of the annual reports necessary to be filed with the State.*

*The current Investment Policy calls for an annual review of the professional investment advisor. This review shall consider investment performance, personnel, strategy, research capabilities, and other such factors. Further, the investment advisory agreement shall be put out to bid no less frequently than every five years.*

*The investment advisory agreement currently in place was negotiated and awarded to Cambridge Trust. Our account is serviced by:*

*Judith Noel*

*Senior Vice President*

*Cambridge Trust Co.*

## **Transaction Processing – Deposits to and Withdrawals from Trust and Capital Reserve Funds**

### *Authority to Request Transactions*

*For trust funds created from private monies, the gift or trust instrument controls any activity in and out of the fund. Generally, Town staff will requisition funds from such accounts with a brief statement on how the purpose for which the funds are being requested fulfills the donor's intended purpose. The Trustees have ultimate discretion over whether the intended purpose has been met, or not.*

*For capital reserve funds and expendable trust funds created with public monies, there must be a Town Meeting action or School District action authorizing the creation of the fund and outlining how these funds are to be spent. Town or School District Meeting may also name the Select Board or the School Board 'agents to expend' enabling these entities to request disbursements from these funds. Without such an action, there must be a Town Meeting or a School District Meeting vote to support any disbursement request from such public funds.*

### *Forms Utilized and Documentation Required*

*The Trustees have established procedures that require that a Withdrawal or Contribution request be accompanied by supporting documentation and a transmittal form for them to sign if the transaction is authorized. This process allows for each authorized Trustee Withdrawal or Contribution to stand on its own in the archives. Vouchers (i.e., purchase orders, invoices, etc.) should always document any withdrawal of funds. Attached are copies of the blank transmittal forms which were first implemented in 2015.*

**TRUSTEES OF TRUST FUNDS**

**DEPOSIT TRANSMITTAL**

Date:

Funds to be deposited to:

Funds to be used for:

Amount:

Sources of Funds:

Public or Private Fund Source?      Public      Private

Principal Expendable?      No      Yes

Notes regarding investment horizon:

Does the fund already exist?      No      Yes

If yes, the fund reference is:

If no, the authority to create the fund is attached and summarized here: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Additional Notes: \_\_\_\_\_

\_\_\_\_\_

Authorized Signers: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

**TRUSTEES OF TRUST FUNDS**

**WITHDRAWAL TRANSMITTAL**

*Date:*

*Funds to be withdrawn from:*

*Funds held at:*

*Amount:*

*Sources of Funds:*

*Public or Private Fund Source?      Public      Private*

*Withdrawal Authority:*

*Additional Notes:* \_\_\_\_\_

*Copy of Warrant article (if applicable)*

*Authorized Signers:* \_\_\_\_\_ *Date:* \_\_\_\_\_

\_\_\_\_\_ *Date:* \_\_\_\_\_

\_\_\_\_\_ *Date:* \_\_\_\_\_

## ***Timing of Transactions and Lapsing of Authority***

There are some general concepts governing the timing of transactions into and out of public funds:

- *Transfers into capital reserve funds must be drawn after July 1, but no later than June 30, of the fiscal year for which the sum was appropriated. For example, if such an action occurs at Town Meeting (where the budget is considered for the fiscal year running July 1, 2015 through June 20, 2016), the Trustees must receive funds to be contributed to the fund by June 30, 2016.*
- *Transfers of any accumulated surplus to capital reserve must occur no later than within 10 days of the determination of the surplus following the close of the fiscal year (that is, by July 10 given the June 30 fiscal year-end, directly following the May Town Meeting). (Note: The Town of Amherst has followed this practice for the last several years.)*
- *Withdrawals from capital reserve funds must explicitly be non-lapsing (for up to five years) in the warrant article or must occur no later than June 30 of the fiscal year for which the sum was appropriated. Absent any non-lapsing language, the Trustees will not disburse funds after the end of the appropriation fiscal year. This lapsing period can be extended if the Town can demonstrate that a legally enforceable contract exists requiring the Town to make payment of such funds for the purposes approve at Town Meeting.*

*It has been common practice for the Town to make its contributions to and withdrawals from its capital reserve funds concurrently sometime in June. For archives purposes and to avoid confusion, these transactions (where there is a contribution to and a withdrawal from the same specific capital reserve fund) should not be netted against each other.*

*Scholarship Process:*

*Paperwork required: completed transmittal request form; proof of matriculation paperwork in by July 1<sup>st</sup>.  
Checks distributed by August 1<sup>st</sup>.*

## **Oversight by NH Department of Attorney General – Charitable Trusts Unit**

### *Oversight Role and Contact Information*

*Terry M. Knowles is the Registrar of the Charitable Trusts Unit of the Office of the NH Attorney General. Her office is responsible for overseeing administration of the various funds held by the several municipal bodies of Trustees of Trust Funds throughout the state. Her office hosts two training sessions each spring for Trustees of Trust Funds: one for new trustees to review the basics, and another session for experienced trustees to address advanced trust administration and investment issues. Her office also provides a Handbook for Trustees of Trust Funds that is a collection of the applicable state laws with some additional information of interest. The current Handbook for Trustees of Trust Funds is attached as an appendix in this reference manual.*

*The Trustees strive to meet with Ms. Knowles on an annual basis to check in with any new legislative activity and to review Amherst's current practices to see where improvements can be made. For significant issues that arise during the year, Trustees and/or town staff may contact Ms. Knowles directly:*

*Ms. Terry Knowles*  
[Terry.knowles@doj.nh.gov](mailto:Terry.knowles@doj.nh.gov)  
*603-271-3591*

### *Annual State Reporting*

*The NH Department of Revenue Administration requires annual reports of trust funds and capital reserve funds filed on forms MS-9, Report of Trust and Capital Reserve Funds, and MS-10, Report of Common Trust Fund Investments. Trustees must file a copy of each of these reports with the Attorney General (Office of Attorney General, Charitable Trust Division, 33 Capitol St., Concord, NH 03301-6397) and with the NH Department of Revenue Administration (Dept. of Revenue Admin., Municipal Finance Bureau, PO Box 487, Concord, NH 03302-0487) on or before September 1 following the fiscal year ended June 30.*

## **MS-9, Report of Trust and Capital Reserve Funds**

The Department of Revenue has provided the following 'walk-through' of the MS-9.

The MS-9 has been designed to disclose the following information:

- (1) The DATE OF CREATION of each trust fund;
- (2) The NAME of each trust fund;
- (3) The PURPOSE of each trust fund;
- (4) The manner in which the unexpended principal and income is INVESTED. The report should state whether investments are in the form of individual bank deposits, stocks, bonds or common trust fund investments. If investments are in common, indicate Common trust Fund #1, etc. (A separate report, form MS-10, must be filed listing the common investments);
- (5) The PERCENTAGE of common trust fund investment applicable to each fund participating in one or more common trust funds;
- (6) The status of the PRINCIPAL account of each trust fund. Columns are provided in this particular section to show the principal balance at the beginning of the year; any new funds or additions to existing funds which were received during the year; any 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 year;
- (7) The status of the INCOME account of each trust fund. Columns are provided in this particular section to enter the income balance at the beginning of the year; the amount of the income received during the year; and what percentage of common trust investment income (if applicable); the amount of income withdrawn during the year and expended for authorized purposes; and the income balance at the end of the fiscal year;
- (8) The last column represents the GRAND TOTAL of principal and income at the end of the fiscal year. Pertinent information must be shown in all applicable columns. All columns should be added both across the page and down on a cumulative total basis from the beginning to the end of the report. Pages should be numbered consecutively, and the total number of pages making up the report indicated. This can be shown at the top of each page as page 1 of 10 pages, or 1/10, etc.

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

- (9) List increases and decreases in the market value of the principal of the securities held.

## **MS-10, Report of Common Trust Fund Investments**

The MS-10 is an inventory of the bank accounts, certificates of deposits, stocks, bond, mutual funds, etc. In which the common funds are invested. The Department of Revenue has provided the following 'walk-through' of the MS-10.

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 on pages 2-3 should reflect the actual cost of acquisition of securities or other investments. This would be the same as last year's ending principal balance. There are columns 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.

Market value of the principal amounts is listed on page 4.

### **REPORTING VALUATION OF STOCKS AND BONDS:**

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 on page 4 of these reports. Gains and losses on securities are recognized in the accounts ONLY when any actual sale or disposition occurs.

### **PROFESSIONAL BANKING OR BROKERAGE ASSISTANCE:**

State law allows for 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 fund resources may be charged against the income only of trust funds involved. Of the total expenses shown on MS-10, the trustees should indicate, in the appropriate space at the bottom of the form, the total amount of money paid for fees and expenses of professional banking and brokerage assistance during the accounting period. We recommend the trustees keep evidence of bank and brokerage charges.