

# Town Of Deering

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## Trustee of the Trust Funds Reference Guide

**Adopted 2016**

**Updated 2018**

### **Purpose of This Document :**

This document explains to any new member the duties, responsibilities, and expectations of the Trustees of the Trust Funds for the Town of Deering, NH.

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## **Town of Deering Trustee of the Trust Funds Reference Guide**

### **1. General Information and Policies**

#### **1.1. Overview of Duties and Responsibilities of the Trustees of Trust Funds**

- Invest funds prudently
- ‘Watchdog’ ins and outs of funds
- Adopt Investment Policy annually
- Annual fund reporting to the State

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 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.

Trust funds do not include the general working capital of the Town or bond proceeds; the Town Treasurer is responsible for cash management and investment of these assets.

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.

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 archived in the Town offices.

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### 1.2 Trustee Calendar

Schedule	Items/Tasks
As Required	Transaction Authorization – Trustees formally act upon requests for funds disbursements and/or contributions.
Semi-Annually	Investment Performance Review.
Annually	Investment Advisor Review – specific review of performance, personnel, strategy, research capabilities, organizational and business matters; determine whether request for proposal process should be undertaken.
Annually	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.
Annually	Discuss Trustee position expiring – determine whether incumbent is running; identify and recruit, as necessary.
Annually	Review and adopt Investment Policy; Investment Policy filed annually with the NH Office of Attorney General – Charitable Trusts Division.
Annually	Following Town Meeting, Trustees elect chair and book keeper.
Annually	Annual Trustee Workshops hosted by New Hampshire Office of Attorney General – Charitable Trusts Division.
Annually	Review annual reports to be filed no later than Mar 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. Trustees prepare the MS-9 and work with investment advisor to generate the MS-10.

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### **1.3 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 six days from the meeting.

### **1.4 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 filled by the Selectmen.

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

### **1.5 Town Staff Responsibilities**

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
- Prepare transaction request information for all contributions and disbursements
- Record and publish meeting minutes
- Schedule and notice meetings

## **2. Investment Policy**

### **2.1 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 [T]rustees shall formally adopt an

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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.”

### **2.2 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.

### **2.3 Professional Investment Management**

As allowed under NH RSA 31:38-a, the Trustees may engage an investment advisor to assist with (a) prudent and advantageous investment decisions; and (b) compliance with State law as to what investment vehicles are allowed or not allowed.

Currently all monies under the purview of the Trustees of the Trust Funds are held with TD Bank. Our contact is:

Keith Pike | Vice President | Government Banking |  
Senior Government Banking Relationship Manager  
TD Bank, America's Most Convenient Bank  
143 North Main Street Concord, NH, 03301  
T: 603-228-9162 | C: 603-660-3719 | Mailstop NH1-080-000

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

### **3.1 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.

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

### **3.2 Forms Utilized and Documentation Required**

The Trustees have established procedures that require that a Withdrawal or Deposit 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 Deposit 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 current blank transmittal forms.

### **3.3 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 no later than Dec 15, of the fiscal year for which the sum was appropriated. For example, if such an action occurs at the March Town Meeting (where the budget is considered for the fiscal year running Jan 1 through Dec 31), the Trustees must receive funds to be contributed to the fund by Dec 15.
  
- 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 Dec 15 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 approved at Town Meeting.
  
- For archives purposes and to avoid confusion, deposits to and withdrawals from the Town's capital reserves from the same specific capital reserve fund should not be netted against each other.

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

### **4.1 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



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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 Deering'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  
603-271-3591

### **4.2 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 Street, 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 March 1 following the fiscal year ended Dec 31.

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

This report is used to report the value of each individual trust and capital reserve fund held in the custody of the Trustees. In reporting how the fund is invested, the notation "PDIP" will suffice if the fund is invested in the NH Public Deposit Investment Pool, or the word "Common" if the fund is invested in common with other funds. Only those Trustees which invest funds in common are required to submit an MS-10. 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 TYPE of fund
- (4) The PURPOSE of each trust fund;

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(5) 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);

(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 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 during the year and expended for authorized purposes; and the income balance at the end of the fiscal year;

(8) The last row 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.

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

(9) On last page, list increases and decreases in the market value of the principal of the securities held.

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

The MS-10 is an inventory of the bank accounts, certificates of deposits, stocks, bonds, 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 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

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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 last page.

### **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 last page 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.

## **5. Summary Fund Listing**

The following table provides summary information on the many individual funds under the custody of the Trustees.

To the extent historic documentation exists and has been archived, copies have been made and are on file in Town Hall in a Trust Document binder kept by the Town Administrator.

Original documentation for newer funds is on file with the Trust Document binder kept by the Town Administrator.

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

### **6.1 Interim Preparation – Prepare ‘mini’ MS-9 on a Monthly Basis**

Trustees are encouraged to prepare an abbreviated monthly MS-9 for the pooled perpetual trust funds in order to more accurately allocate gains and losses, income and fees. Without this intermediate step in preparing the annual MS-9, gains and losses, income and fees are allocated based on the market value of the fund at the end of the fiscal year, with no regard to the

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various ins and outs that may have occurred throughout the fiscal year. In preparing this schedule, there is no distinction between the principal and income balances of the individual funds; rather, the goal is to most accurately reflect the rolling total market value of the individual fund.

1. Beginning market value balances for the reporting period are carried forward from previous reporting period.
2. Any additions or withdrawals to the funds are input directly at the fund level.
3. Realized gains and losses, unrealized gains and losses, income and fees are taken from the monthly investment statements and allocated based on the percentage of market value of the individual fund to total market value of portfolio as of the beginning of the reporting period.
4. The activity for the individual funds is summed across to render an ending market value balance.
5. There is a cross-check to make sure that the sum of the rendered market values of the individual funds matches the market value of the portfolio at the end of the reporting period per the investment statement.

### **6.2 Preparation of Annual MS-9**

1. Beginning balances of principal book value, income book value, principal market value and total fund market value are carried forward from the ending balances of the previous year's MS-9.
2. Common Investment Funds – Perpetual Funds Invested in Common
  - a. Using the monthly MS-9 consolidated to reflect the year's activity, update whether any principal additions were made, and update (allocating where necessary based on % of beginning principal book value) to reflect any realized capital gains and losses as principal book value changes.
  - b. Using the monthly MS-9 consolidated to reflect the year's activity, update income earned, bank fees, and any disbursements (allocating where necessary based on % of beginning income and principal value).
  - c. Using the monthly MS-9 consolidated to reflect the ending market value – principal and income – (allocating where necessary based on % of ending income and principal book value).
  - d. The totals for the Common Investment Funds – Perpetual Trusts should tie directly to the consolidated monthly MS-9 report ... except for the Market Value figure for Principal Only.

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e. The Market Value figure for Principal Only is provided by the Investment Manager as part of the MS-10 preparation. This number is then allocated to the individual funds based on the % of the combined Principal and Income Market Value of the fund to the total combined Principal and Income Market Value of the portfolio.

### **3. Expendable Restricted Trust Funds and Capital Reserve Funds**

a. All expendable restricted funds and capital reserve funds are currently invested with Lake Sunapee in rolling monthly certificates of deposit; consequently, there are no gains and losses, and market value and book value are the same.

b. Each expendable restricted fund will have its own account, and the activity (principal additions, income earned, withdrawals) can be reported straight from the monthly statements.

# **APPENDIX**