

Cemetery 4-8-2019 Minutes -Approved
Franconia Cemetery Trustees

Location: Town Hall, Main Street, Franconia NH

Meeting called to order at 11:00 a.m. by Mary Brubaker

Attendees: Mary Brubaker, Robert "Chris" Collman and Jayne O'Connor, the three Cemetery Trustees of Franconia. Also in attendance: Terry Knowles, Assistant Director of NH Charitable Trust Unit, Department of Justice; Karen Foss and Carol Walker, both Franconia Trustees of Trust Funds. There were no other members of the public present.

Terry introduced herself. She explained that she had retired for a few months as a state employee but was back as a part time employee until June. The NH Municipal Association has contracted with her to assist them with trustee training workshops starting this summer, a job she performed for the state.

Mary stated the Cemetery Trustees would like to have the Trustees of Trust Funds certify \$35,000 for the road and gate projects. This is a follow-up on Town Meeting warrant articles that passed, pending such certification.

Karen asked if the Cemetery Maintenance Fund, established in 1985 as a Capital Reserve Fund, was the proper place to deposit all the post-1983 Perpetual Care funds. Or once they were consolidated, should they have remained in the Trust Fund?

Carol expressed concern that the amounts of funds the Cemetery Trustees wanted, for the roads and gate repair, would seriously deplete the fund. She also thought that the Town should be maintaining the roads in the cemetery.

Terry was familiar with the trust funds in Franconia. She communicated with the assistant to Selectmen around the time the Cemetery Maintenance Fund was created by the Town Meeting in 1985. Also, she was in Franconia in 2016 working with Barbara Holt and others on the transition of the funds when amounts were sorted, as either belonging in individual Perpetual Care Trusts or in the Cemetery Maintenance Fund.

Terry said the Perpetual Care Funds are charitable trust funds. The town of Franconia has a whole bunch of these which were established up until 1983. After that, the Town no longer accepted money for perpetual care. Terry said the Town will have the individual perpetual care funds forever.

The town created the equivalent of an expendable trust by warrant in 1985. Terry pointed out that the law that allowed for the creation of that type of fund (*RSA 31:19-a*) was not established until some years later. The Cemetery Maintenance Fund type can be made clear at next town meeting with a new warrant article. Similarly, the law that allows for the funds received from the sale of cemetery lots to be deposited into the Cemetery Maintenance Expendable Trust Fund (*RSA 289:2-a*) was not established until 2014.

Everyone present turned to page 65 of the *Handbook for Trustees of Trust Funds, Cemetery Trustees and Library Trustees, 2017 Sessions*. Terry explained that upon the sale of cemetery lots, funds received can be deposited in a town's general fund as a sale of town property, or deposited with the trustees of trust funds for the maintenance of cemeteries. Some towns do both: split the money into "sale of earth" portion (to go into the general fund) and maintenance portion (to go into a cemetery maintenance fund). Franconia has chosen to deposit into a single maintenance fund where both principle and interest can be spent.

Terry further explained that *RSA 289:2-a* allows a town to vote to automatically put all, or part, of the funds received for the right-to-inter or for the "sale of the cemetery earth" directly into an expendable trust fund. Previously, a town needed to vote every year to put specific funds into the expendable trust.

Warrant articles at the next town meeting, or at a special meeting, will serve to clarify both issues (fund type and fund deposits). One warrant article could read: **“To see if the Town will vote to create a Cemetery Maintenance Expendable Trust Fund, under the provisions of RSA 31:19-a, for the purpose of maintenance and care of cemeteries. This article amends warrant article 9 from March 1985 which established the Cemetery Maintenance Fund.”** A second article could read: **“To see if the Town will vote to deposit funds received from the sale of cemetery lots (RSA 289:2-a) into the Cemetery Maintenance Expendable Trust Fund.”**

Mary asked if it is alright to fund the Cemetery Maintenance Expendable Trust Fund with both yearly lot sales (right-to-inter fees) and potential yearly appropriations from the taxpayers. Terry assured the group that it is.

Chris asked if the Trustees of Trust Funds were at any kind of risk releasing moneys for the two projects prior to the suggested Warrant Articles. Terry said “no”. The intent and actions of the Town since 1985 were clear; the 2020 warrant articles would make sure there were no future questions about its type of fund. After looking at the Warrant Articles passed in the 2019 Town Meeting, Terry said the Cemetery Trustees were the agents to expend and had the authority to expend money from the Cemetery Maintenance Fund as they see fit.

Terry cautioned that any private donations can not be put into an expendable trust.

Chris and Jayne said there had been a concern that funds deposited in the Cemetery Maintenance Fund from 1980-85 might contain perpetual care funds. Mary stated that the Cemetery Trustees hope to come from this meeting with at least the \$35,000 certified. The Cemetery Trustees’ research of records for 1980-1985 indicated there was about \$5,000 mentioned in those years. Terry said that if the Trustees of Trust Funds found reason to create individual perpetual care trust funds from the Cemetery Maintenance Fund, the Charitable Trust Unit would approve the adjustments.

Carol suggested that it would be good to have a three-to-five year capital plan for the cemetery. This would help them plan the best way to raise the money needed from the investments. The Cemetery Trustees agreed. They had created a list of capital improvements in 2015. The roads and gate projects were combined because the trustees thought the roads could most easily be accessed during the time that the gate was off-site being repaired.

Jayne apologized for not communicating with the Trustees of Trust Funds about the urgent need for repairing the roads and gate. Karen and Carol said the needs for repair were obvious and that was not their primary concern. Jayne explained that the Town had declined to do the work because it did not have the equipment to efficiently and carefully do the repair, and emergency repairs to other town roads after storms have taken precedence for multiple consecutive years. Jayne said the goal of replacing the asphalt roads with hardpack, would allow the town’s equipment to maintain them.

Terry was asked to summarize her comments. The Cemetery Maintenance Fund is an expendable trust fund. The Cemetery Trustees are the agents to expend from that fund. After research, the Trustees of Trust Funds could request adjustments to the fund accounts. If they were reasonable, her office will sign off on it and it will become part of the MS-9 records. There should be a Warrant Article which indicates the Cemetery Maintenance Fund was established under *RSA 31:19-a*. There can be a second warrant article stating that annual lot sales can automatically be deposited into the Cemetery Maintenance Fund under *RSA 289:2-a*.

Mary suggested the meeting become social, so everyone could enjoy the lunch provided by Karen.

The 5 Trustees present thanked Terry for travelling to Franconia in foul weather and expressed that they look forward to hearing word of upcoming training sessions provided by the NH Municipal Association.

Terry departed after lunch.

The Cemetery Trustees and Trustees of Trust Funds who were present discussed the research of the \$5,000 of funds received between 1980 and 1985. The Cemetery Trustees presented documents used in the 2016 research. Carol asked if Barbara Holt had expressed any concerns about these funds. The Cemetery Trustees said Barbara had not, either verbally or in the written correspondence, raised any questions after the changes were accepted by the NH Charitable Trusts Unit. Carol said she doubted that research today would reveal anything missed by Barbara and Bearing Point in 2016. Chris agreed, and asked if anyone thought at this time that more research was necessary. Chris said that since no one had more concerns, no more immediate research was necessary.

Karen and Mary discussed the mechanics of getting the contractors money for deposits on the work. Carol pointed out that lead time to liquidate funds was necessary. Karen thought the town would pay the deposits and the invoice, and then request funds from the Trustees of Trust Funds towards the end of the calendar year. Mary said she would check with the town.

The Cemetery Trustees and Trustees of Trust Funds agreed that there was no reason to ask the Selectmen for a Special Town Meeting. There will be clarifying warrant articles at the regular Town Meeting in March 2020.

The Cemetery Trustees thanked the 2 Trustees of Trust Funds present for attending the meeting and looking into the details involving the Cemetery Maintenance Fund and the Perpetual Care Trust Funds. The consensus was that the meeting with Terry was necessary and had addressed the questions and concerns of both sets of trustees.

Carol and Karen departed.

The Cemetery Trustees reviewed the tasks that need to be done for the gate and road projects. Holly Burbank joined the meeting. Holly confirmed that the Town could pay the deposits and, as Karen outlined, would ask the Trustees of Trust Funds for disbursements from the Town's investment firm near the end of the calendar year. Holly said she would need the minutes from a Cemetery Trustees' meeting stating that: as agents to expend, they vote to approve the expenditure of \$35,000. If the cost of either or both projects is higher, the Cemetery Trustees would need to vote on spending more.

A motion was made by Mary to spend up to \$35,000.00 this year out of the Cemetery Maintenance Fund on the roads and the gate. Chris seconded the motion. There was unanimous approval by voice vote.

Holly left the meeting.

The Cemetery Trustees discussed the current condition of the cemetery grounds and cemetery operations for the Spring.

Mary made a motion to adjourn the meeting at 2:30. Jayne seconded. Passed by voice vote.

Respectfully submitted,

Jayne O'Connor