

DRAFT MINUTES

SELECT BOARD MEETING

MINUTES

October 18th, 2018

1. Call Meeting to Order

Chair Julie Gilman convened the Select Board for a special meeting in the Nowak Room of the Town Offices at 8:10 a.m... Also present are Board members Anne Surman, Don Clement, and Kathy Corson. Town Manager Russ Dean also present, with others present: Florence Ruffner, Chair, Swasey Parkway Trustees, Swasey Trustees Gerry Hamel and Mark Damsell. Finance Director Doreen Chester was also present.

Chairwoman Ruffner called the meeting of the Swasey Trustees to order and welcomed Mr. Tom Donovan from the Charitable Trust division to the meeting. Mr. Donovan introduced himself and offered to answer questions.

Mr. Hamel said the Trustees wanted to do things correctly. He referenced the MOU between the Select Board and Trustees. This has always been above board. Now it is a question of how that money is there and how it should be handled.

Mr. Donovan thanked Mr. Hamel. The boards are not expected to be experts and he appreciates that. Mr. Donovan indicated he was not counsel for Exeter, and the interest at the charitable trust relates specifically to money given in trust for charitable purposes. The bulk of the work involves charitable organizations. Those charities report to the division every year. Moneys are held by the trustees for the public good. In New Hampshire, cities and towns also hold charitable funds given by donors. When this happens the town holds money in trust pursuant to the donor's requirements. The town selectmen have the choice to accept the gift. This happened in Exeter in 1929. When the gift is accepted it is done with the requirements that go along with it. There are statutes that deal with how towns are supposed to deal with this money. In the case of this gift, 2 pots of money were given. One to construct the parkway, and the money left over. This money was to be used for the upkeep and maintenance of the parkway itself. Key Bank now holds the left over money and income derived is distributed to the town. The issue here is how towns hold charitable trust assets. Way back it was the treasurer, but it was deemed not adequate because of commingling of funds. In 1919, the legislature created an elected body of Trustees of Trust Funds. They would hold the funds that were created for a charitable purpose. Exeter like many other towns have Trustees of Trust Funds. When the money comes from the Swasey Trust to the town, the body to receive statutorily is the Trustees of Trust Funds. There isn't a legislative act that authorizes the Swasey parkway trustees. The Robinson Trustees were mentioned by Mr. Donovan but there was a legislative act that created the Robinson Trustees that came before 1919. The Swasey Trustees were created after. Why do we care. Because every town is required to file an MS9 and MS10 form, filled out by the Trustees of Trust Funds, stating what trust fund assets are being held, and how the money was spent. The charitable trust forms are received by the division and they are reviewed for proper holding, spending, and investment. The money from the Swasey Trust is not on this report that is being submitted. That is the nub of the concern. There were other concerns but those should be addressed with your town counsel. There are other sources of income for renting out events and his understanding was it goes into this account. Mr. Donovan suggests consulting the town lawyer on this – these funds might need to go to the town treasurer or to the Trustees of Trust Funds as a special revenue fund created by town meeting. Mr. Donovan isn't saying the Swasey Trustees can't spend the money.

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Ms. Surman asked about the procedure part. Were other boards told about this or should the Trustees of Trust Funds have looked for this money. Should someone have been looking for the money. It's incumbent on the Swasey Trustees to do it but what about others.

Mr. Donovan said local officials are not experts and charitable trust conducts training for Trustees of Trust Funds. He cannot think of another town in the state where there is money on the side. He is sure there is but cannot think of it. This is an educational process.

Mr. Hamel stated who holds it is immaterial to him. But the money that is there now, should it all go to the Trustees of Trust Funds to be held? Mr. Donovan discussed what is in his jurisdiction, the trust money. The money sitting there now, a new fund should be created at the Trustee of Trust Funds, the Selectmen should vote it, and it will be created for the Trustees of Trust Funds. Mr. Donovan indicated the Trustees of Trust Funds would have independence on holding the funds. Mr. Hamel reiterated he had no problem with who holds the funds. He questioned the process. Mr. Donovan discussed the two buckets of money again. The earned income from the Parkway – you should talk about that. The first piece is easy the money derived from the trust. The second account would also be a separate account at the Trustees of Trust Funds. He would not transfer all the money all at once. Just money allocated from the Swasey Trust. The rest consult with the Select Board and Town Counsel as to what should be done with that.

Mrs. Ruffner asked about how to calculate interest. Mr. Donovan said do your best, it's probably not a lot. Mrs. Ruffner said she thinks it's a lot. Mr. Hamel said interest only goes back 8 years. The small pot only goes back 8-9 years ago, so it wouldn't be a lot of money that would be separated out. Mrs. Ruffner suggested the bulk of the money would go to the Trustees of Trust Funds.

Mr. Clement suggested that at a recent Select Board meeting, he suggested that for money generated from fees for the park, that a fund be created at town meeting to dedicate that money there and to be spent only for the park. Mr. Donovan concurred this was an approach that could be taken. Mr. Clement asked about the trust fund to be set up for the rest.

Ms. Gilman commented on the 2 pots of money. The Trustees of Swasey would not be doing anything different in terms of spending. She asked if the money should be moved now before a capital reserve fund was set up for the money that was earned via permitting. Mr. Donovan said they would work with the town. Ms. Gilman suggested the permit fees would now go into the general fund and Mr. Donovan concurred.

Mr. Hamel asked about the spending line with the town, once it is exceeded the Trustees bring the town money to ensure it is balanced. Would this change? Or would the Trustees manage it the same. Mr. Donovan said towns do gross budgeting, so there is a top line item that the town can spend. There should be a top amount that can be spent, but it should be offset. The total should be appropriated at Town Meeting each year.

The town manager would like to see the trust funds moved as quickly as possible. If we want to reflect this in the 2018 audit, it needs to be done by December 31st. If we don't do it, the funds won't show up in the audit or the MS9 or MS10 report. It's a timing issue. Mrs. Ruffner asked about the interest. Mr. Dean said the latest number was \$72,145. Finance through Doreen and Laura has done a great job carving out the interest. Mrs. Ruffner asked about the transfer. Mr. Dean said he thought for audit purposes it would be advisable to do this before December 31st. Mr. Dean relayed a past audit opinion

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that said to centralize the accounts but this was rebuffed as the different boards claimed independent authority. The auditors didn't catch the Swasey funds and town counsel suggested surprise.

Mrs. Ruffner asked about a vote. Mr. Dean yielded to Mr. Donovan, we can let the Trustees of Trust Funds know this money is coming. Mr. Donovan suggested it be good to paper things, and it would be good for the Swasey Trustees to vote. The Selectmen already voted to accept the Parkway funds in 1929, so whether you need to vote to create a fund he is not sure. Mr. Clement said it wouldn't hurt to be redundant. Mr. Donovan said the money would be expendable right now and follow the process of the Trustees of Trust Funds.

Mr. Hamel asked Mr. Dean about the portions to be transferred. He wants to make sure money is available to pay people. Mr. Clement said Mr. Donovan indicated the money needs to be moved to the Trustees of Trust Funds. The money can still be spent out of that fund. It doesn't preclude this.

Mr. Dean would like to move the money as soon as possible, both pots of money. Discussion continued. Ms. Gilman indicated she would like to straighten this out and move the dividend interest to the Trustees of Trust Funds. On permitting money she wasn't sure. Mr. Dean said he will look into that. If a CRF is set up it will be held by the Trustees of Trust Funds. Special Revenue fund and Expendable Trust are other options for the permit money. Ms. Gilman indicated the 72K would be moved and everything else would be moved when that was figured out. Ms. Corson asked about the Swasey Trustees giving authority to accept the recommendation so it can be moved on. Today the 72,000 needs to be dealt with the proper way. Mr. Dean stated his opinion that if a separate fund doesn't exist, it automatically comes into the general fund, so it would become a budgetary offset to regular expenses. There are some differences between the types of funds and these nuances need to be looked at closer. Ms. Corson asked about whose authority it is under. Mr. Dean suggested the authority to spend would be up to the Town Meeting to determine.

Ms. Surman asked again about the flow and working on this. She doesn't want to move things too quickly if it impacts having a capital reserve fund for the trustees. Mr. Donovan said he isn't an accountant. Mr. Clement stated his opinion was to move the current interest income from the Cleveland Trust of about \$72,000 to the Trustees of Trust Funds, and alleviates the concern of Mr. Dean about clean books for the end of the year. Then we can decide how to move ahead for Town Meeting. We have enough information to make a decision today on moving the \$72,000. Ms. Gilman suggested if we are going to do that it needs to be done now as people have obligations today. Mr. Dean asked if whatever motion is made just allude to future interest income as well as current.

Mr. Hamel motioned to move the \$72,145 and any future interest coming from the Cleveland Trust to the Trustees of Trust Fund in Exeter. Mr. Damsell seconded. Motion carries unanimously.

Mr. Clement motioned that the \$72,145 in interest plus any future interest income from the Swasey Trust be moved to the Trustees of Trust Funds and for care maintenance and improvement of the parkway. Ms. Surman seconded. Motion carries unanimously.

Mr. Clement asked about the gross budgeting. Do we have time to do this before town meeting. Mr. Dean suggests if the special fund is created we would move those funds into that fund and go into that fund. The money that exists today would move to that fund. For gross budgeting when set up on the MS6 form we would account for it and the 23,776 would be raised and offset by existing revenue.

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Ms. Gilman departed the meeting.

Mrs. Ruffner asked about how this would be handled and the check writing was worked out amongst the Trustees. Mrs. Ruffner asked for public comment. Seeing none, the meeting was adjourned at 8:56 a.m..

Respectfully submitted,

Russell Dean
Town Manager