

Town of New Castle
Trustees of Trust Funds
Meeting Minutes
September 29, 2023
Location: Town Hall (in person) 11:00 AM

Present: Tim Driscoll, Dave Fitts, Ruth Zikaras, Jim Wilbur
Absent: Julia Thomas

Upon a call of the Chairman with required public notice, a special meeting of the Trustees was held at the Town Hall. The primary agenda was to consider the proposed role of the Trustees as described in the "Memorandum of Gift for Ocean Street Property Charitable Trust". (Attached Exhibit A)

In addition the Trustees had in hand the Select Board's Agenda for two Public Hearings to be held on Monday, October 2, 2023, the first of which is to approve the receipt by the Town of the gift described in the above mentioned Memorandum of Gift.

The Memorandum of Gift raised a number of questions which are best described in the attached email from Chairman Tim to the Town Administrator John Scruton. (Attached Exhibit B) The trustees acknowledged that several of the issues raised in their discussions have no direct bearing on the proposed role of the Trustees as set forth in the Memorandum of Gift but they were of the opinion that the Memorandum of Gift did not contain the attributes and details normally found in Trust documents sufficient to guide the trustees in executing their responsibilities.

Our chief concern was that the Select Board might request a distribution of funds pursuant to the Memorandum of Gift while there was an existing breach of the terms of Section 5 which in turn could give rise to liability to the Trustees for a wrongful distribution. A suggestion to avoid this situation would be to have the trust provide that the Select Board be required to certify to the Trustees that there was no existing breach or claim of a breach at the time of a request for funds.

One troubling observation that, admittedly outside the purview of the Trustees (but deserved to be mentioned) was that the Select Board's notice of the Public Hearing to approve this gift did not include a reference to the Section 5 of the Memorandum of Gift and the various conditions limiting the use of the Ocean Street property.

Ruth will be attending the Public Hearings in her capacity as a member of TOTF.

Respectfully Submitted,

By: 
David W. Fitts, Secretary

PS: By unanimous vote of TOTF at its meeting held today December 5, 2023 the minutes of its special meeting held September 29, 2023 are hereby amended to include an email from Treasurer Ruth Zikaras which was circulated to TOTF members on October 3, 2023 in which she summarizes the discussion and votes of the Select Board regarding the above mentioned "Memorandum of Gift for Ocean Street Property Charitable Trust" at its meeting on October 2, 2023. (Attached Exhibit C)

Attachments referred to in these Minutes may be found in a binder identified as Trustees of Trust Funds Minutes in the Town Clerks storage room in Town Hall.