

REPORT AND RECOMMENDATIONS
OF
TRUSTEES OF THE TRUST FUNDS OF THE CITY OF PORTSMOUTH
ON
SCHOLARSHIP FUNDS POLICIES

October 17, 2019

Respectfully Submitted

Trustees of the Trust Funds

Thomas R. Watson, Chair
Dana S. Levenson
Peter G. Weeks

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A. INTRODUCTION

1. Background

Pursuant to New Hampshire RSA 31:19, cities and towns in New Hampshire are authorized to accept and hold in trust “gifts, legacies, and devises made to [the municipality] for the establishment, maintenance, and care of libraries, reading-rooms, schools and other educational facilities, parks, cemeteries, and burial lots, the planning and care of shade and ornamental trees upon [its] highways and other public places, and for any other public purpose that is not foreign to [its] institution or incompatible with the objects of [its] organization”. RSA 31:22 requires that all such trusts shall be administered by a board of trustees. The Trustees of the Trust Funds (the “Trustees”) of the City of Portsmouth were constituted by the adoption of Sections 7.21 and 7.22 of the Portsmouth City Charter. The Charitable Trust Unit of the Office of the Attorney General oversees the trustees of trust funds in all communities in the State of New Hampshire and an annual report is required to be filed with that office. RSA 31:38.

Among the trust funds managed by the Trustees of the Trust Funds in Portsmouth are 50 scholarship funds that were established by individual donors. The oldest scholarship fund dates to 1834. The most recent was established in 2019. The intended beneficiaries of the scholarship funds vary from fund to fund. By way of illustration, scholarship funds have been established for “promising youths seeking technical education;” a “high school graduate who plans to enter the nursing field;” a student “with the intention of becoming a teacher;” and a “college-bound football player.” A list of current scholarship funds by date, name and intended beneficiaries is attached hereto as **Exhibit A**. Although each scholarship fund is maintained separately and decisions regarding scholarships are made individually, the principal of all funds are pooled together for purpose of investment. At the end of Fiscal Year 2019, the total value of all scholarship funds was \$7,817,147.93.

Historically, the City of Portsmouth has placed few conditions on individuals or estates wishing to establish scholarship funds. Notably, there has been no policy concerning minimum contributions. In fact, the principal balances of the funds vary significantly. As of Fiscal Year 2019, they range from a low of \$1,136.99 to a high of \$1,970,894.14. A list showing the principal balance of each Fund as of the end of Fiscal Year 2019 is attached hereto as **Exhibit B**.

It has long been the practice that families or individuals desiring to establish scholarship funds do so with the assistance of the City’s Legal Department and the Trustees. The vast majority of these scholarship funds were either created in memory of a loved one or popular member of the community or were established pursuant to a bequest in a deceased person’s will. The funds were named for the deceased and were created to remain in perpetuity. In order to permit the value of the scholarship funds to grow over time, the trust agreements establishing scholarship funds require that the principal remain in the funds and distributions for scholarships be limited to income realized upon the principal. In some, though not many cases, the establishment of a scholarship fund was followed by fundraising by its settlor to boost the principal in the fund. On average, most of the newer funds were funded with between \$3,000 and \$5,000. Often, the creator of a scholarship fund does not appreciate that it will require several years of sustained investment, without distributions, for a fund of this size to accumulate sufficient principal to annually pay out an award as little as \$500.

The process for establishing a scholarship fund is often an educational one for the settlor. Often, scholarship funds are created upon the death of a loved one. Generally, at the outset, the settlor wants to be actively involved in determining the selection criteria for awards and, even, in the selection process itself. Over time, it becomes apparent that the settlor never intended that level of participation to be a lifetime commitment. Moreover, on a number of occasions, the City has been approached by a settlor who wants to change the terms of the original trust agreement several years after the fund was established. These settlers do not understand that, once the fund has been established and turned over to the Trustees, the settlor has no remaining legal interest in the fund. For these reasons, in recent years, the Legal Department has worked with settlers in discussing future scenarios and building alternatives into the trust agreements.

In the recent past, the City has offered settlers an alternative to the traditional perpetual named scholarship fund. The alternative fund is created for a specific purpose. It allows for principal as well as interest to be distributed as awards and is designed to sunset or expire when all the principal and interest has been paid out. For instance, at the time Sherburne School closed, funds were raised to start a scholarship fund benefitting students who attended that school. By the time the last class of Sherburne School students graduated from Portsmouth High School, the entire fund had been disbursed in awards.

2. Analysis of Existing Scholarships

In 2016, after observing that there were a number of scholarship funds that were not generating annual scholarship awards, Assistant City Attorney Kathleen M. Dwyer of the Legal Department performed an analysis of all scholarship funds to ascertain the extent of the problem. At that time, there were 46 scholarship funds. The analysis revealed the following:

Table 1

No distributions	17	(Total Value of All Funds \$ 220,987)
Distributions up to \$500	7	(Total Value of All Funds \$ 111,573)
Distributions \$501-1,000	11	(Total Value of All Funds \$ 328,226)
Distributions \$1,001-2,000	4	(Total Value of All Funds \$ 172,739)

Distributions \$2,000-15,000	4	(Total Value of All Funds \$ 305,132)
Distributions over \$15,001	4	(Total Value of All Funds \$4,922,132)

As Table 1 illustrates, nearly \$221,000 was unable to generate any scholarships because the sum was divided among 17 funds. In addition, another \$111,500 was only able to generate 7 scholarships of less than \$500 for the same reason.

Total scholarship distributions for this period amounted to \$130,321. This situation did not improve in future years. For instance, in 2018, there were 15 scholarship funds that did not earn enough income to pay out an award.

Attorney Dwyer also reviewed the purposes for which the scholarship funds were established in relation to the total value under management and the amounts distributed in awards. The results of that analysis are set forth in Table 2.

Table 2

		Total Value	Total Awards
College Bound Students	26	3,886,566	81,955
Studying Education	7	186,315	2,707
Studying Nursing/Health	5	1,754,742	39,142
Trades	3	126,366	2,028
Unknown	4	106,800	4,489
Band*	2	Included in Unknown totals	

Table 2 demonstrates that students who wish to pursue certain areas of study after high school (e.g., studying education) cannot avail themselves of meaningful scholarships because, notwithstanding that there are substantial sums under management, the principal is so divided among the funds that the total value of the awards is small. For example, in the case of students wishing to study education, notwithstanding that there is \$186,315 in principal under management, that sum is divided among seven funds with the result that the total value of the awards made in this field was \$2,707.

3. Goals

Following the Trustees' receipt and review of the results of the analysis performed by the Legal Department, the Trustees and Attorney Dwyer have worked with the Charitable Trust Unit to enhance the overall amount of income available from existing scholarship funds, reduce the lack of awards from several existing funds and address the disparities in awards resulting from the prevalence of small, underfunded scholarship funds. Ultimately, these efforts led to three general recommendations for existing and future scholarship funds. These recommendations include:

1. Adoption of guidelines for future scholarship funds to ensure that they are adequately funded.

2. Creation of new community scholarship funds.
3. Consolidation of existing underfunded funds.

The Charitable Trust Unit has been provided with copies of all trust agreements governing scholarship funds managed by the Trustees (with the exception of four very old funds for which agreements either never existed or can no longer be found). The Trustees and the Legal Department have identified 20 scholarship funds that have been historically underfunded in that they do not generate enough income to make an annual award, or are only able to support an award of less than \$500. This list was submitted to the Charitable Trust Unit together with a recommendation that the Trustees be permitted to consolidate the underfunded funds into several newly created community scholarship funds in the following areas:

- Study in the fields of Science, Technology, Engineering and Mathematics (STEM)
- Study in the Arts.
- Study in Career Technology (Trades).
- Study in Higher Education generally.
- In recognition of athletic accomplishment.

The creation of community scholarship funds will also provide alternatives to future settlors or interested donors who are unable to contribute a significant enough sum to fund a stand-alone scholarship fund.

B. SUMMARY OF RECOMMENDATIONS

1. Adopt New Policies for the Establishment of new Scholarship Funds.

After careful analysis of existing scholarships, the Trustees recommend that potential settlors be offered three options regarding new scholarship funds.

- a. Named scholarship funds with a minimum initial principal balance of \$25,000.00. Payment of awards will be limited to payment from income only.
- b. Named scholarship funds with a balance of under \$25,000.00 that will sunset after a specified period of time. Payment of awards may be out of principal and income.
- c. Donations to one of five newly created community scholarship funds.

2. Create New Community Scholarship Funds

The Trustees recommend that the City create five new community scholarship funds for the following areas of study and accomplishment:

- Study in the fields of Science, Technology, Engineering and Mathematics (STEM).
- Study in the Arts.
- Study in Career Technology (Trades).
- Study in Higher Education generally.
- In recognition of athletic accomplishment

3. Merge Existing Small Scholarship Funds into Community Funds

The Trustees recommend that the current balance in each of the twenty scholarship funds that have been identified as underfunded, that is, as unable to make any award, or only able to make an award of less than \$500, be merged into one of the five newly created community funds. This will be accomplished through the execution of Non-Judicial Settlement Agreements as authorized by RSA 564-B:1-111(b).

C. SPECIFIC RECOMMENDATIONS

1. Adopt New Guidelines Governing the Creation of New Scholarship Funds

(a) Named Scholarship Fund - Perpetual

- For each new “named” scholarship fund intended to remain in perpetuity, the original trust corpus must be at least \$25,000, an amount sufficient to generate enough income to make at least a \$500 annual award. These scholarship funds will prohibit the invasion of principal for the payment of awards. Settlers are free to define the intended beneficiaries and course of study as they have in the past. They may also participate in the selection process should they wish.
- If the initial corpus is less than \$25,000, the settlor will have three years from the establishment of the fund to raise enough contributions to attain the \$25,000 minimum.
- If, at the end of three years, the \$25,000 minimum has not been raised, the fund will convert to a “sunshine” scholarship fund or can be designated to merge into one of the community scholarship funds.

(b) Named Scholarship Fund with Sunshine Provision

- This type of fund is structured to make annual awards from principal and interest, in a predetermined amount of at least \$500 until the fund is fully expended. There is no minimum or maximum initial contribution as long as the corpus supports the minimum annual scholarship award. Settlers are free to define the intended beneficiaries and course of study and participate in the selection process.

2. Create Five New Community Scholarship Funds

The five new community scholarship funds will benefit students who wish to pursue further study in the following fields or in recognition of athletic accomplishment:

Study in the fields of Science, Technology, Engineering and Mathematics (STEM).

Study in the Arts.

Study in Career Technology (Trades).

Study in Higher Education generally.

In recognition of athletic accomplishment.

These fields of study are consistent with the purposes for which many of the City's existing scholarships were established. They are also broad enough in scope to insure that there likely will be more than one qualified recipient for awards from each fund annually.

A qualified recipient for an award from one of the newly created community scholarship funds must be graduate (or a current graduating senior) of Portsmouth High School or a Portsmouth resident who is a graduate (or a currently graduating senior) of an accredited New Hampshire secondary school who will be continuing his or her education at an accredited institution or program after graduation.

The recipients of scholarship awards from the community scholarship funds will be selected by a committee consisting of the following persons at Portsmouth High School:

College Guidance Counsellor
Senior Class Guidance Counsellor
Grade Office Principal for the Senior Class
Director of the Career Technical Education
Principal or Principal's Designee

The initial corpus of each community scholarship fund will be the sums devolving to that fund when the current underfunded scholarship funds are merged into the community funds, as discussed in Section 3 below.

The community scholarship funds will also serve as potential repositories for individuals or businesses that want to contribute to education generally without tying their donations to the memory of a particular person and present opportunities for fund raising events. The Trustees recommend that the program created for the annual scholarship award ceremony recognize new contributions to each community fund during the year preceding the award. The Trustees also recommend that there be permanent recognition of the scholarship funds that are merged to create the new community scholarship funds.

3. Merge Existing Small Scholarship Funds into Community Funds

Working with the Charitable Trust Unit and with notice to original settlors, where possible, the current balance in each of the twenty scholarship funds that have been identified as unable to make any award, or an award of less than \$500, will be merged into one of the five newly created community funds. This will be accomplished through the execution of Non-Judicial Settlement Agreements as authorized by RSA 564-B:1-111. An effort will be made to "match" the original purpose of the underfunded fund with the purpose of the community scholarship fund into which its balance will merge as much as possible.

Preliminarily, it is anticipated that the merger of the underfunded funds, totaling \$281,628.30, into the community funds will result in the following initial funding for the community funds:

Table 3

Arts	\$ 81,094.71
STEM	\$ 10,036.53
Career Technology	\$ 17,829.78
Higher Education Generally	\$135,016.31
Athletics	\$ 37,650.97

Inasmuch as the documentation necessary to implement the proposed changes will require the participation of the City, including the School Department, and the Charitable Trust Unit, the Trustees recommend that the City Council and the School Department approve the foregoing recommendations.

D. CONCLUSION

As Table 3 illustrates, the consolidation of the small, underfunded scholarship funds into community scholarship funds will increase the amount of principal available to generate income annually for scholarships by over \$280,000. The adoption of the new scholarship policies will prevent the reoccurrence of unproductive funds in the future.

Respectfully Submitted

Trustees of the Trust Funds

Thomas R. Watson, Chair
Dana S. Levenson
Peter G. Weeks

Recommendations approved by the Portsmouth School Board on October 22, 2019

Recommendations adopted by the Portsmouth City Council on December 2, 2019

EXHIBIT A

<u>Date of Creation</u>	<u>Name of Trust Fund</u>	<u>Purpose of Scholarship Fund</u>
1834	Mary Clark Scholarship	Scholarship for a deserving child in public school
1872	Martha DeMeritt Scholarship	Scholarships to Portsmouth residents with need and acceptance to college
1917	Annie Fields Scholarship	Scholarship for higher education and promising pupils
1934	Horace Haven Medals	Provides for academic medals awarded annually
1955	Gray Scholarship	Scholarship for promising youths seeking technical education
1971	M. P. Alkon Scholarship	Scholarship and medal awarded every 5 years
1971	Annie McIntosh Scholarship	Scholarships to prospective nursing students with financial need, then to others with need
1974	Barry Hodgdon Scholarship	Scholarship for high school graduate involved in athletics
1974	Edward Webster Brady Scholarship	Scholarship for needy vocational student showing promise
1980	James Sullivan Scholarship	Scholarship awarded to a person entering drama field
1980	Haven School Athletic Scholarship	Scholarship awarded to graduate entering athletics or physical education
1982	Demaris/Brooks Scholarship	Scholarships to high school graduates who have completed 1 year of college
1982	Alice M. Lee Scholarship	Scholarship for a needy student entering teaching field
1982	Bartlett Speaking Awards	Provides for cash awards for prize speaking at graduation
1982	Ermino A. Ricci Trades Scholarship	Scholarship for deserving high school graduate going to building trades school
1984	Ray Murphy Scholarship	Scholarship awarded to college bound graduating football player

1987	Sandra H. Rosen Scholarship	Scholarship to high school graduate who was in the Clipper Marching Band
1988	Clarence L. Sherwood Scholarship	Scholarship to two PHS male graduates of scholastic ability in need
1993	Donald Smith Scholarship	Scholarship to high school graduate who participated in sports and has needs
1994	Agnes C. Griffin Scholarship	Scholarship to high school graduate who plans to enter nursing field
1995	Walter Richards Scholarship	Scholarship to high school graduate who played basketball and is going to college
1994	Theresa Demaris Scholarship	Scholarship to high school student who plans to continue a career in music
1997	John J. Foley Scholarship	Scholarship to high school graduate
1999	Joseph H. Grilli Scholarship	Scholarship to PHS graduate in upper 50% of the graduating class
1998	Carrie Lee Mackali Scholarship	Scholarship to PHS female graduate attending college with financial need
1999	S. Michael Wentworth Scholarship	Scholarship to PHS graduate in good academic standing demonstrating leadership
2000	Joanne & Salvatore Grasso Scholarship	Scholarship to PHS graduate in top 35% going into a career in education
2000	Phillip Nelson Scholarship	Scholarship to PHS graduate who has been accepted into art school
2003	John J. Wholey Scholarship	Scholarship to PHS graduate who intends to follow a career in law or politics
2003	John & Olga Leary Scholarship	Scholarship to PHS graduate and has been a Portsmouth resident for at least 1 year
2003	William & Irene Mortimer Scholarship	Scholarship to PHS graduate who is attending a 2 or 4 year college
2008	Jhaimie S. Dye Scholarship	Scholarship to PHS graduate who is attending a college and played soccer
2008	Harold & Ruth Whitehouse Scholarship	Scholarship to PHS graduate who is attending a 2 or 4 year vocational college

2008	Lillian D. Goldin Education Scholarship	Scholarship to PHS graduate who is attending a college with intention of becoming a teacher
2009	Henry & Phyllis Coito Scholarship	Scholarships to PHS graduate who have completed 1 year of college
2009	Diane Lieberman Share Scholarship	Scholarships to PHS graduates who intend to go into elementary education
2011	Col Helen D. Maslanka Scholarship	Scholarships to PHS graduates who intend to go into elementary education
2011	Henry B. Margeson Scholarship	Scholarship to PHS graduate
2012	Patty Wojnar Award	Award to student entering workforce or trade
2012	Little Harbour Math Award Fund	Little Harbour graduate going to college & studying math
2013	John W. Durgin Memorial Scholarship	Scholarship to PHS graduate entering the field of engineering
2015	Barbara Porter Memorial Scholarship	Annual Scholarship – PHS Senior/ graduate entering field for nursing
2015	Tony Rahn Memorial Scholarship	Scholarships to PHS graduates who have completed 1 year of college
2015	William & Irene Mortimer II Scholarship	Annual Scholarship – Graduating SR-Higher Learning 4 YR Degree
2015	Bud Ricci II Memorial Scholarship	Annual Scholarship – Graduating SR-Higher Learning 4 YR Degree
2019	Erik Rappolt Scholarship	Annual Scholarship

Futures Program

EXHIBIT B

FMV @ 06/30/19

200	Mary Clark Scholarship	1,136.99
204	M. P. Alkon Scholarship	2,691.90
243	Little Harbour Math Award Fund Scholarship	3,616.20
201	Horace Haven Medals Scholarship	4,508.26
222	Agnes C. Griffin Scholarship	6,420.33
242	Patty Wojnar Award	7,032.45
239	Diane Leiberman Share Scholarship	8,998.79
237	Harold & Ruth Whitehouse Scholarship	9,588.69
221	Donald Smith Scholarship	10,113.19
209	Edward Webster Brady Scholarship	10,797.33
249	Erik Rappolt Scholarship	11,841.01
223	Walter Richards Scholarship	13,363.25
241	Henry B. Margeson Scholarship	13,874.96
211	Haven School Athletic Scholarship	14,174.50
210	James Sullivan Scholarship	15,312.51
216	Ray Murphy Scholarship	17,882.19
224	Theresa Demaris Scholarship	18,818.55
238	Henry & Phyllis Coito Scholarship	19,128.75
213	Alice M. Lee Scholarship	19,815.89
202	Annie Fields Scholarship	20,954.15
217	Sandra H. Rosen Scholarship	22,038.19
245	Barbara Porter Scholarship	22,170.42
235	Jhaimie S. Dye Scholarship	24,742.45
230	Phillip Nelson Scholarship	24,925.46
231	John J. Wholey Scholarship	27,220.99
228	S. Micahel Wentworth Scholarship	27,232.56
236	Lillian D. Goldin Scholarship	28,540.55
208	Barry Hodgdon Scholarship	34,127.67
225	John J. Foley Scholarship	34,500.44
227	Carrie Lee MacKail Scholarship	40,064.70
246	Tony Rahn Memorial Scholarship	43,068.38
248	Bud Ricci II Memorial Scholarship	47,956.13
218	Clarence I. Sherwood Scholarship	48,122.43
247	William & Irene Mortimer II Scholarship	51,099.83
214	Bartlett Speaking Awards Scholarship	53,167.48
244	John W. Durgin Memorial Scholarship	59,655.83
229	Joanne & Salvatore Grasso Scholarship	60,663.96

233	William & Irene Mortimer Scholarship	64,618.77
226	Joseph H. Grilli Scholarship	75,612.79
212	Demaris/Brooks Scholarship	96,347.91
215	Ermino A. Ricci Trades Scholarship	134,057.84
240	Col Helen Maslanka Scholarship	160,479.92
352	FUTURES Program	375,143.53
203	Gray Scholarship	837,102.80
232	John & Olga Leary Scholarship	1,255,171.31
206	Annie McIntosh Scholarship	1,968,351.54
205	Martha DeMeritt Scholarship	1,970,894.14
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	TOTAL FAIR MARKET VALUE	<u><u>\$ 7,817,147.93</u></u>