



Town of Candia
Trustees of Trust Funds
PO Box 357 - 74 High Street
Candia, New Hampshire 03034

Minutes
21 November 2014

The meeting was called to order at 7:01 pm. Trustees Al Hall (chairman), Roland Girard, and Tom Giffen were present. Also present was Dave DuPuy and Dick Snow from the Board of Selectmen (BOS), Jerry Becker (Superintendent of Cemeteries), and Kathy Allen to record the minutes of the meeting. All attended said the pledge of allegiance.

As chairman of the committee, A. Hall moved the reimbursement request for the cemetery to the beginning of the meeting. David DePuy began explaining the BOS's a request for reimbursement from the Cemetery Perpetual Care Funds. The request totaled \$12,706.88. The individual yearly requests were for: \$3,547.49 (2013), \$2,971.96 (2012), \$2,849.37 (2011), and \$3,338.06 (2010). D. DePuy presented the BOS's rationale for their reimbursement submission. D. DePuy explained, the way the Candia Perpetual Care Deeds are written that the purpose of each individual trust is to provide funds for the care of that particular lot (grave). However, the town expends costs to maintain the cemeteries as a whole.

The issue then is arriving at a fair allocation method to reimburse the town for the care and upkeep of those lots where a perpetual care fund exists. He talked to Terry Knowles at the New Hampshire AG's office. She relayed that the most prevalent allocation methods were:

- 1) to calculate the individual cost to care for each individual lot (this is the most time consuming and not recommended by the AG's office);
- 2) to calculate an average cost per lot and charge the cost of care on that basis, or
- 3) to calculate the cost based on the ratio of perpetual care to non-perpetual care.

D. DePuy said he and J. Becker prepared a formula that was a hybrid of numbers 2 & 3.

The Trustees, D. DePuy and J. Becker discussed the allocation method being used. An excerpt the BOS's request with the allocation formula is attached to these minutes for reference.

The Trustees discussed the last time perpetual care income was paid to the town and whether monies from 2010 to 2012 could be paid. D. Snow said the last year all income was paid out to the town was 2009. In 2010 the Trustees learned that perpetual care funds could not be used for general upkeep of the cemeteries as a whole and the Trustees decided to change how perpetual care income was paid to the town. D. Snow heard Terry Knowles said at an annual Trustee workshop that you could only go one year back in taking money out of trusts. D. DePuy said he had sent Terry Knowles an email asking her this question but had not yet made contact with her.

R. Girard said the Trustees had been asking for a methodology for a long time and he congratulated D. DePuy and J. Becker for doing a great job at coming up with a method. R. Girard would like some time to study the methodology; he did not feel he had enough time to review the material and make a decision

that night. T. Giffen said he looked at the methodology quickly and he does not see a problem with it but he is open to R. Girard's suggestion that we take some time to study the calculations and we need to wait for an answer from the AG's office anyway. A. Hall thanked D. DePuy and J. Becker for coming and their time. All the Trustees commended them for their work. D. DePuy and J. Becker left the meeting.

After a brief discussion all the Trustees agreed that no action further action on the reimbursement request would take place at this meeting. They need to hear the AG's response on whether income from 2010 to 2012 can be paid out.

Chairman Hall went back to beginning of agenda as the cemetery discussion was concluded. Proof of posting was presented. The minutes of the September 2014 meeting were reviewed and approved as written.

No general correspondence was received since the last meeting.

K. Allen presented the financial reports of the funds through November 17, 2014.

At the last meeting, the First Energy stocks were given to R. Girard to direct register, which he did. K. Allen said that the notice had been received from First Energy that the stocks had been received by them and direct registered.

The Trustees discussed the Administration Support position next. Two resumes were received for the Admin position. T. Giffen said he looked at both resumes and Geri Holmes's background matches best what the Trustees are looking for in a candidate. A. Hall brought up that G. Holmes had been selected as the budget secretary. T. Giffen said he was aware of that and did not feel it would be an issue. R. Girard made a motion to hire G. Holmes for the admin support role. T. Giffen; all agreed. R. Girard asked A. Hall to send a letter to the other applicant. The group discussed the issue of the transition. K. Allen said she would finish out 2014 including the year-end reports and town audit. G. Holmes should start taking over the administration/accounting starting January 1, 2015. The Trustees agreed a letter should be sent to G. Holmes; her contract would be the same as K. Allen's. The contract would begin in January 2015 and goes to March 31, 2016.

The remaining eleven reimbursement requests were reviewed by the Trustees:

- The Board of Selectmen submitted six requests for reimbursement from the Future Revaluation CR Fund totaling \$18,600.00. The individual requests were for the following Commerford, Neider, Perkins invoices: \$2,325, \$1,938, \$1,163, \$3,565, \$2,479, and \$7,130. The Trustees reviewed the documentation presented. R. Girard made a motion to pay all the requests. T. Giffen seconded the motion. A vote was taken and it passed unanimously.
- A request for \$13,000.13 was submitted for reimbursement from the Moore Highway Fund. It was for work performed by the road agent on Critchett Road. The Trustees reviewed the documentation presented. R. Girard made a motion to pay the request. T. Giffen seconded the motion. A vote was taken and it passed unanimously.
- The BOS submitted four requests for reimbursement from the Candia Fire Apparatus Capital Reserve Fund totaling \$76,550.37. The individual requests were for the following amounts \$71,810, \$2,899.90, \$1,425, and \$415.47. The Trustees reviewed the documentation presented. T. Giffen made a motion to pay the requests. R. Girard seconded the motion. A vote was taken and it passed unanimously.

K. Allen gathered the required signatures on the PDIP contribution and withdrawal forms related to the reimbursement requests.

K. Allen said she would send an invoice for Q3 retainer. The trustees agreed A. Hall could sign the invoice when it is received. The amount will match what is budgeted for the quarter.

The Trustees will hold a special meeting in December; the date is pending a response from D. DePuy regarding the reimbursement of prior year perpetual care funds.

The next regularly scheduled meeting will be February 27, 2015 at 7pm.

The meeting was adjourned at 8:32pm.

This is an excerpt of the request for Perpetual Care funds submitted to the Candia Trustees of the Trust Funds.

November 21, 2014

Trustees of the Trust Fund
Town of Candia
P.O. Box 357
Candia, NH 03034

Ref: Cemetery Common Trust – Interest on Perpetual Care Funds

To Whom It May Concern:

This letter is a request for funds from the Cemetery Common Trust Fund interest on perpetual care lots for 2013 in the amount of \$3,547.49. In accordance with the attached “report regarding the amount of interest on perpetual care cemetery lots that the Town may request for the care of Town cemeteries” with attachments, I have attached a copy of the Selectmen Meeting Minutes from the meeting of September 22, 2014 for your records. Please forward the check, to my attention, to the Town of Candia, 74 High Street.

This letter is also to request funds from the Cemetery Common Trust – Interest on Perpetual Care Funds for \$2,971.96 for 2012, \$2,849.37 for 2011 and \$3,338.06 for 2010, all of which amounts are calculated using the same formula used to calculate the 2013 amount as contained in the “report regarding the amount of interest on perpetual care cemetery lots that the Town may request for the care of Town cemeteries.” In that regard I am also attaching reports of the trust funds: individual cemetery trust funds for the Town of Candia for 2013, 2012, 2011 and 2010, a summary of calculations using the formula for requesting interest on perpetual care lots for 2010, 2011, 2012 and 2013, along with the calculations of interest foregone and not requested on lots earning interest over \$25.00 for 2010, 2011 and 2012. The calculations for interest foregone and not claimed for 2013 is contained in the “report regarding the amount of the interest on perpetual care cemetery lots that the Town may request for the care of Town cemeteries.”

Please forward the checks, to my attention, for those additional amounts for those years to the Town of Candia, 74 High Street. Should you have any questions, please feel free to contact me.

Sincerely,

Donna Becker
Town of Candia
Payroll / Accounting Clerk

Summary of Calculations Using _____ Formula for Requesting Interest on
Perpetual Care Lots for 2010, 2011, 2012 and 2013

Year	Lots with Perpetual Care	Average Size of Lots	Square Footage of Such Lots	Total Square Footage of Holbrook Cemetery	% of Holbrook Cemetery in Perpetual Care Lots	% of Time to Care for Holbrook Cemetery Compared to Total Time for All Cemeteries	Cost of Care for All Cemeteries	Cost of Care for Holbrook Cemetery	Cost of Care for Perpetual Care Lots	Total Interest Earned on All Perpetual Care Funds	Total Cost to Care for Perpetual Care Lots (Limited to Maximum of \$25 Per Lot)
2013	411 (as of summer 2014)	151	62,061	273,648	23%	68%	25,983.00	68% x 25,983 = 17,668.44	23% x 17,668.44 = 4,063.74	4,147.53	\$3,547.02 (4,147.53-600.51)
2012	400	151	60,400	273,648	22.07%	68%	26,814.37	68% x 26,814.37 = 18,233.77	22.07% x 18,233.77 = 4,024.19	3,386.37	\$2,971.96 (3,386.37 - 414.41)
2011	396	151	59,796	273,648	21.85%	68%	27,661.57	68% x 27,661.57 = 18,809.87	21.85% x 18,809.87 = 4,109.96	3,237.66	\$2,849.37 (3,237.66 - 388.29)
2010	392	151	59,192	273,648	21.63%	68%	24,235.76	68% x 24,235.76 = 18,520.32	21.63% x 18,520.32 = 4,005.94	3,815.18	\$3,338.06 (3,815.18 - 477.12)

Number of Lots	Amount of Interest	Less \$25.00	Foregone Interest
13	\$37.90	\$25.00	\$12.90
69	\$26.57	\$25.00	\$1.57
87	\$66.42	\$25.00	\$41.42
93	\$38.13	\$25.00	\$13.13
105	\$26.57	\$25.00	\$1.57
107	\$132.71	\$25.00	\$107.71
108	\$26.57	\$25.00	\$1.57
114	\$66.42	\$25.00	\$41.42
121	\$79.70	\$25.00	\$54.70
125	\$79.70	\$25.00	\$54.70
126	\$26.57	\$25.00	\$1.57
132	\$26.57	\$25.00	\$1.57
192	\$26.57	\$25.00	\$1.57
194	\$33.21	\$25.00	\$8.21
214	\$95.77	\$25.00	\$70.77
215	\$28.71	\$25.00	\$3.71
254	\$66.42	\$25.00	\$41.42
311	\$26.57	\$25.00	\$1.57
373	\$37.90	\$25.00	\$12.90
374	\$26.57	\$25.00	\$1.57
<u>380</u>	<u>\$26.57</u>	<u>\$25.00</u>	<u>\$1.57</u>
			\$477.12

Number of Lots	Amount of Interest	Less \$25.00	Foregone Interest
13	\$31.28	\$25.00	\$6.28
89	\$54.82	\$25.00	\$29.82
95	\$31.47	\$25.00	\$6.47
109	\$109.54	\$25.00	\$84.54
116	\$54.82	\$25.00	\$29.82
123	\$65.78	\$25.00	\$40.78
127	\$65.79	\$25.00	\$40.79
197	\$27.41	\$25.00	\$2.41
217	\$79.05	\$25.00	\$54.05
257	\$54.82	\$25.00	\$29.82
364	\$82.23	\$25.00	\$57.23
377	\$31.28	\$25.00	\$6.28
			\$388.29

Number of Lots	Amount of Interest	Less \$25.00	Foregone Interest
14	\$32.47	\$25.00	\$7.47
92	\$56.90	\$25.00	\$31.90
98	\$32.67	\$25.00	\$7.67
112	\$113.69	\$25.00	\$88.69
119	\$56.90	\$25.00	\$31.90
126	\$68.28	\$25.00	\$43.28
130	\$68.28	\$25.00	\$43.28
200	\$28.45	\$25.00	\$3.45
220	\$82.05	\$25.00	\$57.05
260	\$56.90	\$25.00	\$31.90
368	\$85.35	\$25.00	\$60.35
381	\$32.47	\$25.00	<u>\$7.47</u>
			\$414.41

To The Candia Board of Selectmen

Report Regarding the Amount of the Interest on Perpetual Care Cemetery Lots

That the Town May Request for the Care of Town Cemeteries

I. Study Based on 2013

This study is based on the year 2013. The interest on Cemetery Perpetual Care Lots for 2013 as reported in the Town of Candia 2013 Annual Report at p. 54 was \$4,148 with accumulated interest of \$14,592 on a total fund of \$202,251.

II. Perpetual Care Trust Income

There were 406 lots listed with perpetual care funds held in trust as of 12/31/13. (See attached Report Of Trust Funds: Individual Cemetery Trust Funds). The income on those funds for the year 2013 was \$4,148. That is an average of \$10.22 per lot. The Town of Candia sells cemetery plots by lot, not by grave. Lot sizes differ and the number of graves per lot differs. A lot may have one grave or 20 graves. Moreover, the sizes of graves also differ.

The Superintendent of the Cemeteries, Jerry Becker, went back over 20 years (to 1991) to determine the number of graves and the square footage of the lots with perpetual care during that period of time. His findings are attached. He determined that since 1991 there were 119 lots sold in Holbrook Cemetery with perpetual care with a total square footage of 17,961 square feet. The average square footage of a lot for that period is 151 square feet per lot. The average number of graves per lot was 3.59.

There are 406 lots with perpetual care as shown on the attached Report Of The Trust Funds and 5 more were added at the time Jerry Becker did his study this spring for a total of 411 lots in perpetual care.

Assuming the average size of those lots is 151 square feet, then the total square footage of lots with perpetual care is 411×151 which equals 62,061 square feet. It appears that most, if not all, of the perpetual care lots of which we have records are in Holbrook Cemetery. The total square footage of Holbrook Cemetery is 273,648 square feet. Thus, the total square footage of perpetual care lots is 23% of the total square footage of Holbrook Cemetery.

The time required to care for each of the Town of Candia's 7 cemeteries is shown on the attachment (Estimated Time to Care for Candia's Cemeteries). The total time to care for all cemeteries is estimated to be 740 hours. The time to care for Holbrook Cemetery is estimated to be 504 hours. Thus, the time to care for Holbrook Cemetery is approximately 68% of the total time to care for all cemeteries.

The total budget for the care of cemeteries for 2013 was \$26,178 with \$25,983 expended. The cost for the care of Holbrook is therefore estimated to be 68% of \$25,983 which equals: \$17,668.44. The cost to care for the perpetual care lots is 23% of the cost to care for Holbrook, or 23% of \$17,668.44 which equals \$4,063.74. Since there are 411 perpetual care lots, the average cost to care for a perpetual care lot is \$9.89. ($\$4,063.74 \div 411 = \9.89). Since some lots may have 20 graves and thus may require more care, an individual lot may, in fact,

cost 2 or 3 times or more that of the average lot. In addition, a lot may have graves which have plantings, urns, etc., that require extra care.

In light of these circumstances, it is recommended that interest on each perpetual care lot up to \$25.00 would be fair to charge for the care of the perpetual care lots. There are 22 perpetual care lots which produce more than \$25 in interest. (There are 83 over \$10.22). If the Town's request for interest is limited to the interest taken on lots to \$25, that would result in foregoing interest of the following amounts on the following lots as follows:

Number of Lot	Amount of Interest	Less \$25.00	Foregone Interest
4	\$39.58	-\$25.00	\$14.58
74	27.74	-25.00	2.74
92	69.36	-25.00	44.36
98	39.82	-25.00	14.82
110	27.74	-25.00	2.74
112	138.60	-25.00	113.60
113	27.74	-25.00	2.74
119	69.36	-25.00	44.36
126	83.23	-25.00	58.23
130	83.24	-25.00	58.24
131	27.74	-25.00	2.74
137	27.74	-25.00	2.74
198	27.74	-25.00	2.74
200	34.68	-25.00	9.68

not taken

220	100.02	-25.00	75.02
221	29.98	-25.00	4.98
260	69.36	-25.00	44.36
319	27.74	-25.00	2.74
368	104.04	-25.00	79.04
381	39.58	-25.00	14.58
382	27.74	-25.00	2.74
388	27.74	-25.00	2.74
Total Interest Foregone:			<u>\$600.51</u>
Total Interest On All Perpetual Care Accounts			\$4,148.00
Less Amounts Foregone on Lots with Interest Over \$25.00			<u>\$600.51</u>
Recommended Amount of Interest on Perpetual Care Lots to Request Be Paid To the Town of Candia			\$3,547.49

Thus, the recommendation of this report is that this Board of Selectmen request that the Trustees of the Trust Funds pay to the Town of Candia \$3,547.49 in interest from the perpetual care interest on trust accounts for 2013 and an appropriate amount to be calculated in similar fashion for prior years as permissible.

The New Hampshire Supreme Court has held that: "The law is well established that trusts for perpetual care of cemeteries and cemetery lots are valid charitable trusts." See Cemetery Perpetual Care Fund case: Opinion of the Justices, 101 N.H. 531 (1957) at 533.

The New Hampshire Attorney General in an opinion issued in 1966 has stated that: "It has been held that the Town trustees of cemetery funds were not authorized to expend surplus income [from cemetery trust funds] for the general care of the cemetery." Attorney General Opinion 1966-25: Cemetery Perpetual Care Funds (March 22, 1966). "Continuing, the opinion [in the case of Boscawen v. Attorney General, 93. N.H. 444 (1945)] said that in the present state of the law, a cy pres application of such surplus funds to purposes not originally contemplated would only be permitted when there is a showing of either impossibility or impracticality of using accumulated and future current income as desired by each testator." Attorney General Opinion 1966-25.

The Attorney General Opinion concluded by stating: "Unless authorized in the trust instrument, any diversion of trust income from trusts established for the perpetual care of individual lots for other purposes would subject the trustees to personal liability." A.G. Opinion 1966-25.

Our standard cemetery deed currently transfers "One Lot of Land in the Cemetery." It notes: "Perpetual Care \$ _____" and references "and is numbered Section _____, Lot _____ On the Plan of said Cemetery...." "To have and to hold the said granted premises... with the reasonable rules and regulations that may from time to time be prescribed by the selectmen having charge of said cemetery." (See attached form).

Attached is a copy of an email that I sent to Terry Knowles, Assistant Director of the State of New Hampshire Department of Justice Charitable Trust Unit, asking for approval of paying all interest on perpetual care lots to the Town of Candia to care for our cemeteries. In response to

that email, I had a telephone conference with Terry Knowles the substance of which was as follows:

There are three ways for the Town to address this issue:

1. Calculate the cost to care for each lot, lot by lot. This is not a method recommended by her department.
2. Calculate the average cost per lot and charge the cost of care on that basis.
3. Calculate the cost based upon the ratio of perpetual care to non-perpetual care graves.

Terry Knowles stated that the per lot amounts in Candia were generally diminimus except for the larger interest sums being generated by certain lots, such as one generating over \$138 in interest. She stated that the Cemetery Trustees should adopt a policy, within reason, for the cost of care of perpetual care lots in view of the way we sell lots, which can be one grave or 20 graves.

Therefore the limit of what the Town may charge per lot of some amount would be appropriate.

Terry Knowles stated that in the future, sales of lots should reference general lot care which may be used for general cemetery maintenance.

Based upon this discussion, I recommend that the Board of Selectmen acting as Cemetery Trustees, adopt a rule that the care of individual lots receiving perpetual care be charged the amount of interest earned on each perpetual care lot not to exceed \$25. While this may result in some lots being charged more than the average charge by as much as \$15.11, it seems likely (1) that those funds earning the largest amount of income are for those lots that have more graves or that are more expensive to care for, (2) that to annually determine the actual cost for each lot would be impractical; and (3) that the amount of the possible overcharge of \$15.11 is diminimus.

Further, I recommend, based on the calculations made in this study and the rule or regulation recommended in this report, that the Board of Selectmen apply to the Trustees of the Trust fund for the release to the Town of interest in the amount of \$3,547.49 for the year 2013 to be appropriated to the general funds of the Town and that the amounts due from perpetual care interest for permissible past years, be calculated and applied for as well.

R. David DePuy

Estimated Time to Care for
Candia's Cemeteries

Times/Year	Cemetery	Hours
12	Holbrook	42 hrs. every 2 weeks (504 on average)
8	The Hill	15 hrs. every 3 weeks (120 hrs.)
8	The Village	12 hrs. every 4 weeks (96 hrs.)
4	Island	2 hrs. every 6 weeks (8)
4	Depot	2 hrs. every 6 weeks (8)
2	Brown Road	1 hr. twice a year (2)
4	Palmer	20 min. every 6 weeks (2)

Total Hours on All Cemeteries:

740 hours

**Unapproved
Candia's Selectmen's Public Meeting Minutes
September 22, 2014**

Attendance: Chairman Carleton Robie, Vice-Chair David DePuy, Selectman Dick Snow, Selectman Amanda Soares, Selectman Boyd Chivers, and Administrative Assistant Andria Hansen.

Chairman Robie opened the meeting with the pledge of allegiance.

Approval of Previous Minutes: Public meeting minutes 9/8/14. Selectman DePuy moved to approve the minutes as amended. Seconded by Selectman Chivers. All were in favor. Motion carried.

The Board to discuss over expending the budget if necessary to complete ash landfill closure. Chairman Robie said he spoke to the Board about funds anticipated unexpended for 2014. He went over the budget with Accounting & Payroll Clerk Becker and they came up with some numbers. They are very close to the number they had at the end of 2012. Their budget is holding pretty solid. They are almost into the 4th quarter. If they went with the low bid and \$8,000 for Stantec it would give them a cost of \$110,000. This is showing unexpended at \$105,000 and they have \$36,000 left out of the \$50,000 they appropriated at the town meeting. The people obviously support our efforts to get this done. They overwhelming voted for \$50,000 increase in that budget. It got us to the point where we got the engineering completed and the testing done. He spoke with the Budget Committee and if the budget was overspent they felt that \$30,000 was acceptable. He does have the paperwork they would need for over spending. Selectman Soares said the Board did a good on the budget Saturday. She noticed the Board has an extra \$7,000 in the microfilming line and in the special projects line in solid waste. Chairman Robie said they need to do the microfilming. Selectman Soares understood but they have their priorities and if they needed to use it they could. Chairman Robie felt they had the funds to do this and won't cut themselves short come December 31st. Selectman DePuy doesn't want to over expend the budget, but he felt this was something they have to do. It has been around for a long time and we need to get that site closed. As he has said before this is something they are mandated to do and DES has been very patient in giving us more time to do it. At some point they can lose patience and just tell us to do and it won't matter what the cost is to the town. The town rejected a similar cost the last time and he thought the town was saying we don't know if that is a good price or not. Basically they told the town to be responsible and find out what is there and what is the cost. They were hoping that it would be less and it turns out that it wasn't, but that is the responsible way to do this. Before they just had a price and they were going on a gut reaction. They didn't know if it was a good price or not. They've done the additional testing and this is the only other way to go. Selectman Chivers said the only improvement he could see is if they had the DES permit in hand. They knew their standards were the ones that were set forth in the plan submitted by Stantec. There weren't any last minute surprises, so when they award the bid it is exactly the work that has to be done to comply with the permit. He asked how close they were to a permit. Chairman Robie said he was really hoping they would have a permit in hand today. Mr. Kemp was out of the office today. He explained he spoke with him a couple a weeks ago and he said they could set up the site for erosion control and bring equipment into

the site. He confirmed they were going to get a permit. There was a little confusion with the short paper fiber. This has been all sorted out. He was confident they will have a permit by the first of next week. Selectman Chivers asked if there was going to be any surprises or any new standards. Chairman Robie replied no. Selectman Chivers said if that is the case he supports this. Selectman Snow said he can't vote to over expend the bottom line on the budget. He is very concerned about the Board not taking this back to the voters. He thought if they want to spend more than the \$50,000 that was voted in the beginning of the year plus the \$30,000 in the closure fund then they need to figure out how to get the town to vote on that. A couple of years ago they agreed to a contract, the agreement was they needed to go to the town with that. It's only September, they have 3 months. They could go to a special town meeting before the end of the year and ask for an additional appropriation. If the town agrees to it based on this then they are all set. He has a problem looking at numbers now and saying maybe they can under spend. It's true that the amount that is there is equivalent to what we had as a surplus as last year. They don't know what is going to happen with the weather they could end up at the end of the year in a position where they have to over expend. He will not vote to over spend the budget based on the incinerator closure. If they had a storm, that is something that was unexplained. This was something that was available for two years now and he thought they should go to the town to get a vote. They can do it as an emergency meeting or they can put \$50,000 in next year's budget. This would say after the first of the year the money would be there and available to pay. The town would then have the opportunity to vote on it after the fact. If they voted on it after the fact they would have to cut back their budget. If they have a default budget it will have \$50,000 left in it from this year. Either way they could get the job done, this is his position. Chairman Robie said he was not asking to over spend the budget he felt they could spend it within their budget. Obviously the town voted to get this done. The community voted on a Budget Committee to be fiscally responsible for our budget, so this is why he asked them. The \$110,000 doesn't reflect the \$36,000 they still have from the \$50,000. They should have \$30,000 or \$40,000 left after they finish this in case of an emergency. If that happened and they needed to over spend , they have gotten permission if need be. The town wants them to get this done, they voted for it at Deliberative Session by appropriating \$50,000. Selectman Snow reiterated they could go to a special town meeting or they could put \$50,000 in the budget for next year. Then they could make the payment after the first of the year. They are going to have to transfer money into that closure line when they use up the \$30,000. This means they have increased an appropriation without the town having any input and that is a problem. This is a problem to him and it's his personal opinion. Selectman Chivers asked who much it cost to plow a 6 inch storm. Road Agent Lewis said basically it's how long it takes to get to 6 inches. If the duration is four hours it doesn't take much at all, if it's over twenty four it will cost a lot more. It costs about \$400 or \$500 per hour to plow, but it's anyone's guess. There is no way to predict the weather. Selectman Chivers verified that the \$30,000 could absorb that. Road Agent Lewis said he couldn't give a good guess. Selectman Chivers thought Selectman Snow brought up a good point, but he should have thought this out when they put it out to bid. There are four companies that have spent a lot of time submitting bids to the town. They owe them the business. How many times can they put this out to bid and not award the bid? Selectman Snow reiterated he gave the Board two options to do this. Chairman Robie said you can't spend money that you haven't appropriated. If someone does a job we have to pay them and if the people say no where are we going to get the money. Selectman Snow said when they signed the contract the last time they signed it contingent upon the vote of the town. Selectman Snow reiterated there are two

options. Accept it now or accept it the first of January and get the voters to vote on it in April. *Selectman Soares motioned to accept the proposal Chairman Robie put before us with the operating funds that we have available to proceed with the project of closing the old recycling center on New Boston Road. Seconded by Selectman Chivers.* Selectman DePuy said he would like to respond to Selectman Snow's comment and they are legally obligated by the state to close this facility. They have to do it and they put it out to bid and got bids that they are going to consider tonight. The town cannot vote to not do that, the state has mandated that we do this and we have to incur the cost. Carleton and Amanda have worked hard to get where we are and we have to bite the bullet and do it. He appreciates Selectman Snow position, but they have to do it. Chairman Robie called for a vote. *Chairman Robie, Selectman DePuy, Selectman Chivers, Selectman Soares were in favor and Selectman Snow was opposed. Motion carried on a vote of 4 to 1 (4-1-0).* Chairman Robie said the next step would be to award the bid for the ash landfill closure. He noted that he had some information on short paper fiber from the town engineer. They got this all straightened out in Concord. It is going to be acceptable. Selectman Snow asked if they were going with the short paper fiber. Chairman Robie said they need to discuss if they want to do that or not. Casella has committed to October 1st through October 31st. They would deliver it to the site. Selectman Chivers thought Casella was going to deliver it to the contractor. They would handle the storage and handling of this stuff. Selectman Snow didn't recall any discussion about that. Chairman Robie said there was a brief discussion, but he thought they said they are going to receive this even if they didn't have a contract but we could still put the material on site. Once they hired a contractor the material would already be there. Chairman Robie continued to read from the memo from the town engineer (see attached). He said it is the Board's decision if they want to use this product or not. He does know the State of New Hampshire is going to allow this and it is why we don't have our permit in hand. Selectman Snow said so there is no cost associated with this. He questioned Casella's added requirements for the engineers to insure that it is being done properly. They've had discussion in the past that Stantec is not going to be doing as much as what is in the bid package. He asked if there is enough money allocated to Stantec and is there an extra cost associated with it. Chairman Robie said he spoke of this earlier and yes he has a contract from Stantec. Stantec quoted \$8,300 and it is a firm fixed price. The total estimated cost for the work to be done on time and expense. If less time is needed the cost would be less. This means if Casella is hauling material there and they are bringing in good product, Stantec doesn't have to send someone out there to manage that material. They have to manage it for us or the contractor. They are coming to verify what Casella is bringing us and it is going to be satisfactory to the state specification. Selectman Snow asked if Stantec is going to be monitoring all of the action that takes place with the bid package that we put out for that \$8,300. Chairman Robie said it was just like the \$15,000 for the engineering and they reduced that down to \$11,000. Then it came back at \$2,000 more to generate the land fill permit, the bidding support, and then coordinate with the State of New Hampshire for SPF which was a \$500 fee. This was in the first package and it is an additional \$8,300 to see that the job gets done properly and Stantec will sign and stamp it and give it to DES. Selectman Snow questioned the bid itself. Significant portions of it are bid on a per yard basis. Does this imply if they do more yards estimated, there will be an additional cost? Chairman Robie replied yes. Selectman Snow confirmed they may end up with more cost than what is in the bid. Chairman Robie said that is always the case that is why they've taken this through three sets of plans and a little extra engineering to get it down to a size where the numbers are more easily estimated. They know that 1,400 yards of permeable soil, SPF or clay

will cover the area with a foot of that material. This is why they paid \$15,000 for plans that are pretty accurate. Selectman Snow said it is still an estimate. He questioned if they are going with SPF. Chairman Robie said that is a discussion they are having right now. Selectman DePuy said his gut reaction is SPF isn't the way to go, he felt clay is tried and true. SPF is new and it is DES approved, but it makes him uneasy when he hears the terms of Casella. He said when he hears the terms that we are going to be the customer and we will indemnify Casella. He would rather that they are not involved in this thing, they give it to the bidder and they do it all. The low bidders SPF is \$102,000 and with the clay it is \$112,000. He knows that it is \$10,000 more but it would make him sleep easier at night. It's not just for the material, but the contract and the terms that Casella is giving us. It is putting legal responsibility on us for the SPF. Chairman Robie didn't get the part where they are putting legal responsibility on us. *Selectman Soares would like to make the motion that they use the SPF because it is approved by DES and if they are moving forward with this project she would like to do it with material approved by DES and in the most efficient and most cost effective way possible for the town.* Selectman DePuy said he wasn't going to reread the memo but it says the customer shall maintain the access to the project customers and be responsible for the stockpiling of the SFP. The customer shall have the ability to manage the deliveries. The customer shall be responsible for the placement. This puts us in the line of fire as an intermediary. It is not going directly to the contractor it is going directly to the town and from the town to the site. Chairman Robie said that is why they are going to have the engineer on the site to manage the contractor. Selectman Snow said they were cutting Stantec's cost. Chairman Robie said they weren't cutting Stantec's cost we are pay \$8,300 to oversee the construction of the project. We haven't signed the contract yet. Selectman Snow said Stantec estimated the cost of what was in their bid package. They came back and they are getting less money, which is a cut in his mind. He's not going to argue about it, whether it is valid or not. He understood what Selectman DePuy was saying, but this whole thing was a crap shoot. The material they talked about years ago is still there and is going to stay there. As long as what is put on the cap doesn't create conditions to allow anything in there, anything that goes in there would have to go through one cap and then another and then go into the water before DES cares. They aren't taking this off site and that is a problem in his mind and they are doing it this way to say money. At some point in time they may have to spend more money, but if he saved \$10,000 here they don't have any more indemnity then if it goes through the clay and ends up in the water. It could go through the SFP and end up in the water. Chairman Robie said the only indemnity they have on this is they have tested the material to prove that it is none leach able; it came back as solid waste. If anything ends up in the water it is going to be from underneath what they are doing. We have done \$33,000 worth of testing on the ash. Selectman Snow said he knew he did the same thing two years ago. He felt the SPF was as good as the clay and if they follow specs and if Stantec is there to follow best management practices, they save \$10,000. Chairman Robie would like to get a second on Selectman Soares motion. Selectman Chivers agreed with Selectman DePuy and didn't think you could go wrong with the clay. They are responsible for managing this stuff. Chairman Robie said the motion was made and not seconded, so it failed for a lack of a second. Selectman Soares confirmed that the Board was willing to waste an extra \$10,000 for clay when everyone has been worried about the money in the budget. They want to waste an extra \$10,000 and not use the SPF which is acceptable to DES. Selectman Chivers said he wouldn't characterize it as wasting. Selectman Snow said neither would he and he would characterize it as her opinion. Selectman Soares said they already have a clay cap and they are capping what is considered non hazards and non leach able.

It's solid waste they are just putting something over it. Selectman Chivers said it is an organic substance that could rot. If you cap that with sawdust in fifty years there will be nothing left. If you cap with clay in fifty years you will still have clay. Selectman Soares said they also have an old landfill that we never properly done the way landfills should be done today. They have no assurance that anything was properly capped before. Chairman Robie said this is going to improve what is there tenfold. Whatever they do there will improve the cap. This is why they had to go through the permitting process because they didn't have a permit. He likes the clay idea himself but he didn't know how they were going to pay for it. He does know they don't have to hire Stantec to be there if they don't use the SPF. This way they could reduce the \$8,300 to \$7,000. He mentioned the 1,400 yards of clay being hauled to the site and the cost is reasonable if you do the math. He was concerned about Mr. Ladd's high bid on the clay just knowing a little bit about dirt. Selectman Snow asked about the cover over the cap and is it still going to be the same thing. Chairman Robie said it would be loam. He noted that Mr. Ladd got two good recommendations from Stantec and two people he contacted. He has the recommendations if anyone wanted to see them. He mentioned the other bids and the difference between the clay and SPF is double. This is the only thing that makes him nervous. Daniel Ladd's is off by half and he doesn't want to see anyone get in trouble. He is nervous for the contractor. Selectman Snow asked if any of the contractors were not qualified to do the job. Chairman Robie said they were all qualified and he does have references from the low bidder. Selectman Snow would like to go with the lowest bid. Chairman Robie clarified that it isn't the town's responsibility if the contractor comes up short on the material. He just wanted the Board to be aware of that. *Selectman DePuy made the motion to accept the Daniel Ladd's base bid at \$112,534 and use the clay. Seconded by Selectman Snow.* Chairman Robie reiterated that Stantec would not cost \$8,300, but probably around \$7,000. Selectman Snow said that is over and above the bid itself and there are going to be other cost associated with it. Chairman Robie said they have a pretty good idea of the costs. Selectman Chivers said the contract is pretty comprehensive. Selectman Snow noted the engineering might turn out to be more other than that Daniel Ladd is going to do what is in that bid for \$112,534. He noted if they aren't doing something he can look at the bid and say this isn't being done. Selectman Chivers asked what items he was referring to. Selectman Snow said any items in the bid package. Chairman Robie said that is why they pay Stantec to do this instead of us being on site. Selectman Soares found it amazing that they found money in the budget and you proceed to go for a bid that is over what we figured out to be the amount of money that we could possible squeeze within the budget. Instead of being cautious with our money you are going on the high side. It really isn't appropriate when you are dealing with other people's money. When we have to use this money you don't want to go to the high side when they are trying to be cautious with money. Selectman Chivers responded that we were being cautious with our land. Selectman Soares said they are not being cautious with money. Selectman Chivers said land is a little more irreplaceable than money and in 25 to 30 years it could be a greater burden to our community because we made a bad choice. Selectman Soares said they should go with the cheaper price so they would have a cushion if unforeseeable things happen or change of orders take place. Selectman Snow asked her why she didn't support having the voters vote on this. Selectman Soares replied because it needs to get done. Chairman Robie was confident that SPF was a good material. Doug Kemp from DES recommended it to Stantec and himself during the first meeting and he and Rene shied away from it. He felt more comfortable with it as they received more information. He said the motion has been made and seconded and called for a vote. *Selectman DePuy, Selectman*

Chivers, Selectman Snow were in favor and Chairman Robie and Selectman Soares were opposed. Motion carried on a vote of 3 to 2 (3-2-0). Chairman Robie said he would contact Stantec and DES in the morning. Selectman Soares asked how much longer was this going to take to get there permit now that they've changed it back to clay. Chairman Robie said hopefully by the end of the week and changing it will be easy. He noted hopefully they can get started next week.

Selectman DePuy to give update on the perpetual care funds. Selectman DePuy said he gave each Selectman a report, but he was going to give a brief presentation. This study is based on 2013 and it involved a lot of work by Superintendent of Cemeteries Jerry Becker. The overall thing they were trying to do was figure out how much of the perpetual care interest they could justify under the law be paid to the town. The annual report for 2013 says \$4,148 with accumulated interest of \$14,592 with a total fund of \$202,251. There were 406 lots listed with perpetual care funds held in trust as of the end of December 2013. They produced an income of \$4,148 which was an average of \$10.22 per lot. The Town of Candia sells cemetery plots by lot not by grave. A lot can have 20 graves or 1 grave and the sizes of graves differ. This was not an easy matter to tackle. Jerry Becker went back 20 years (1991) to the square footage of lots of those graves during of that time with perpetual care. In 1991 there were 119 lots sold in Holbrook Cemetery with perpetual care with the total square footage 17,961 square feet, so the average square footage was 151 square feet. If they multiply that with the number of lots with perpetual care and there were six more added since the end of 2013 that brings the square footage of the perpetual care lots to 62,061 square feet. Most of the perpetual care lots are at the Holbrook Cemetery. The total square footage of Holbrook is 273,648 square feet. The total square footage of the lots at the Holbrook Cemetery is 23% of the total square footage of that cemetery. Jerry prepared an estimated time to care for the cemeteries and determined that it took 740 hours to care for the cemeteries. 504 hours were on Holbrook and represented 68% of the total time. If they took 23% of those perpetual care lots and the 68% the cost to care for Holbrook would be \$17,668 and 23% of that is \$4,674 which is almost the amount of the interest. This is a way to say the cost of the perpetual care lots is almost as much as the interest is. He sent a memo to Terry Knowles at the Attorney General's Office and asked what she thought of it. She said there are three ways that town can do this. One is calculating the cost to care for each lot by lot most towns have grave by grave but they don't recommend that. They could calculate the average cost per lot and charge the cost of care on that basis or calculate the cost based on the ratio of perpetual care to non perpetual care graves. This is basically what they did. He explained to her that some lots have perpetual care interest that is just around \$20 or less. He mentioned one is \$113.60 and some are \$75. She thought it would be wise to reduce those charges and place a limit. He suggested that \$25 be the maximum amount of interest that the town would take per perpetual care lot. This would result in not taking interest of \$600.51 and it would reduce the amount of interest we could take of perpetual lot to \$2,547.49. He has set forth the law here and he noted to her that would involve for some lots taking as much as \$15 more than the average. Her comment to him was it was de minimis when you look at the whole scheme of things. He is making a presumption of the lots earning more interest. There are larger lots that have more graves; some urns and some have plantings. To try to figure out what each grave costs would change from year to year and it's impractical. She has agreed with this way of doing it and her department would approve it. He is making this recommendation to the Board that they go to the Trustees of the Trust Fund for the \$3,547.49 for 2013 and they will go back to prior years to do it the same way to justify what they can get there. He thought the amount was

approximately \$14,000. Selectman Soares liked the report and acknowledged that Jerry Becker did a substantial amount of work. Selectman DePuy said he would make his recommendation a motion to request for 2013 the interest for perpetual care in the amount of \$3,547.49. Chairman Robie said he would like to solicit the trustees for the full amount based on the work they did for the year 2014. Selectman Soares said they can use this going forward every year. Chairman Robie thought they should be asking for the \$14,000 that hasn't been paid to the town from the trustees for the past years. Selectman DePuy said there is \$4,100 in interest and they can only ask for \$3,546 this year. He thought the best they could do is ask for \$2,600 per year. *Selectman DePuy said his motion would be to ask for \$3,547.49 for 2013 and go back to former years using the same formula. Seconded by Selectman Soares.* Selectman Snow said he had two problems with this. One is that you can't go back into the years. It is a very good check. He is surprised to see that 15.64% is a magic number and it gets you almost exactly what they get in interest. The Cemetery Trustee's are going to have to provide a voucher that gives you the amount that you want to take out of every one of those individual trusts. This is a significant effort to do. He mentioned that income per lot is \$10.22 and the expense per lot is \$9.89. Over the years the income was transferred directly from the Trustees of Trust Funds to the Superintendent of Cemeteries. This was never a problem and he doesn't see it as a problem here. They should ask for the \$4,148. The income in this year's column is anticipated revenue therefore can come directly to the town for this year's costs. It's anticipated because we know what it was at the end of the year. If that is available this year and was in the anticipated revenues, it allows you to get it as an inter fund transfer. If they go to the trustees and ask for the \$4,148 out of 2013 they are going to get it. If they try to do what really should be done (i.e. Dave & Jerry report), they can discuss that as Cemetery Trustees at their next meeting if they want to. He believed they could go for the whole \$4,148. Chairman Robie said Selectman Snow is saying that whatever the Board wants the trustees will give to us. They have been trying to get this money for the past 4 years and someone has held it up. Dave and Jerry have worked countless hours on this report. Now you throw your hands up in the air and say they ought to give us the whole thing. Selectman Snow said that Terry Knowles has said you can't go back in time. This is a question that Selectman DePuy didn't ask her. Selectman DePuy said he was not confident that would work because there are individual lots and a lot of them don't produce \$10.00 some \$2.00 etc. Selectman Snow replied what Terry told you was de minimis. What she meant was if you come up with an average cost of per lot, you come up with an average interest per lot. This means that the town is doing a great job and it is taking care of the lots. The cost to do that comes out of perpetual care. It is a significant clerical problem if what they have to do is say alright were only going to take some of the interest out of that account this year. They would still have an accumulated interest. Unless the Trustees of Trust Funds question it Terry is never going to hear about it. Selectman DePuy said they are each individual trusts and they each have to be charged. If you do it that way there just isn't enough money. They would have to charge the lot that is producing \$113.00. You would have to charge them the \$138. Selectman Snow didn't think there was anyone in there that is earning \$130 per year. Chairman Robie said there was a couple. Selectman Snow thought if they go to the probate court the probate judge is going to say no. Chairman Robie thought Selectman DePuy and Superintendent of Cemeteries Jerry Becker did a phenomenal job and Dave has explained this to the best of his abilities. Chairman Robie called for a vote. *All were in favor. Motion carried.* Selectman Soares asked Selectman DePuy to thank Jerry Becker for his hard work.