

65

## TOWN COMMITTEE ON THE FEOFFEEES

*Established by vote of Town Meeting on April 2, 2001, to inquire into the operations and financial records of the Feoffees of the Grammar School and report its findings to the Annual Town Meeting in April, 2002. The Moderator was instructed to appoint one member each of the Board of Selectmen, the School Committee, and the Finance Committee, and four otherwise unaffiliated members.*

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## ESTABLISHED FINDINGS

### **How many Feoffees are there, who they are, who appoints them**

- There are 4 Feoffees.
- They currently are Donald Whiston (chairman), Alexander Mulholland, Peter Foote, and James Foley.
- They are all Ipswich residents (as required by statute).
- In the case of a vacancy the remaining members choose the new member.
- The chairman receives a stipend ( \$7,800 in FY 2000) for the managerial tasks he performs ; otherwise the Feoffees receive no compensation. (Data from Form PC submitted by the Feoffees to the Attorney General's office).
- Legally, the three Selectmen "eldest in office" are supposed to constitute a joint committee with the Feoffees, sharing power with them (Statutes of 1786, Ch. 5). The Selectmen have not acted in this capacity in the last eighty years (Letter from Donald Whiston, 3/20/02).
- It is the custom for the Chairman of the Board of Selectmen, whether or not he or she is one of the three eldest in office, to preside at the Feoffees' annual meeting.

### **Historical background**

- The Feoffees were established by the Town by a vote of Town Meeting on November 14, 1650 (Town records at Town Hall and Form PC submitted by the Feoffees).
- The vote established a four-member committee to hold land granted by the Town for the support of a "grammar school" (Town records at Town Hall).
- By vote of Town Meeting in January, 1652, the committee (reconstituted) was given the charge "to receive all such sums of money, parcels of land, rents or annuities" as shall be given to support the school.
- The Feoffees used to own other parcels of land (in Ipswich ,Essex, Rowley, and Revere) but now Little Neck is the one parcel they own (Feoffees' "Comments" on earlier draft of these Findings).
- The Feoffees came into possession of Little Neck through the bequest of William Paine, a member of the 1650 committee. Dying in 1660, he left Little Neck to the "free school of Ipswich .. to be to the benefit of the said school for ever ... and therefore the said land not to be sold nor wasted" (Waters' History of Ipswich and Suffolk Registry of Probate, State Archives).

### **Special acts of the legislature pertaining to the Feoffees**

- Questions and uncertainties about the Feoffees in the 18<sup>th</sup> century led the Town to seek legislation clarifying matters .
- Temporary statutes in 1756 and 1766 were made permanent by a statute passed in 1787 (Province Laws 1755-56, Ch. 26; Province Laws 1765-66, Ch. 5; Statutes 1786, Ch. 54).
- The statutes recognize that the Feoffees hold certain lands “for the use of school-learning” in Ipswich “for ever”.
- They incorporate the three Selectmen “eldest in office” as a joint committee with the Feoffees to act with them on all matters.
- They also direct that the joint committee shall annually report on their proceedings at Town Meeting.
- On several subsequent occasions (e.g. in 1835, 1892, and 1906) the Feoffees have obtained authorization from the legislature when they have wanted to sell land (Acts 1835, Ch. 106; Acts 1892 Ch. 66; Acts 1906, Ch. 506).
- The statutes of 1835, 1892, and 1906 all include provisions directing the Feoffees to invest the proceeds and apply the income in accordance with the provisions made permanent by the 1787 statute.
- The Feoffees’ financial statements published annually in the Town Report show no such investments still on the books

### **How do the Feoffees describe their mission**

- The Feoffees acknowledge in various documents that they are “a non-profit charitable organization”(Form PC submitted to the Attorney General’s office), that they are “a public trust”, and that the land they own “is for the benefit of the public schools in Ipswich”(statements on the rent bill sent to the tenants).
- Elsewhere they declare that, based on the opinions of former Town Counsels Vincent and Dalton, they “have considered themselves as a quasi-public trust, as the distribution of the net income is restricted to the public schools of the Town” (Feoffees’ “Comments”).
- In April 2001, at the request of the Division of Charities in the State Attorney General’s Office, they filed Form PC for each of the years 1997,1998,1999, & 2000 . They say they did so voluntarily, “pending resolution of the legal requirement for a municipal entity to file Form PC (Feoffees’ “Comments”).
- The Feoffees say that if the three Selectmen eldest in office choose not to serve as a joint committee with them they would support judicial or legislative action to have others take their place, chosen by appropriate authorities, e.g. the Selectmen, the Town Manager, Town Meeting, the Moderaator (Letter from Mr. Whiston, 3/20/02).

### **The Feoffees’ management of Little Neck**

- Since the late 19<sup>th</sup> century they have rented lots there on which tenants have been allowed to build cottages.
- There are now 167 cottages.
- Each cottage (and the on-site septic system servicing the cottage) is owned by the tenant.
- The Feoffees are assessed and pay to the Town the real estate taxes on the land and on such structures owned by the Feoffees as a community center and a

wharf; in addition, they collect for the Town and pay over to the Town the real estate taxes on the cottages.

- The tenants do not have leases on the lots. They are tenants at will.
- The Feoffees allow only 24 of the 167 cottages to be used as year-round residences (Feoffees' *Rules and Regulations*).
- The remaining cottages may only be occupied between April 1 and November 30.
- In 1967 the Feoffees voted that no additional cottage should be occupied year round unless the Board of Health issued a certificate for an adequate sewage disposal system.. The Feoffees were concerned by the number of cottages being converted into year-round homes and the sewage problem it created; the land needed to "rest" over the winter "giving the waste products a chance to dissipate" (R. Betts, "History of Little Neck", 1998, p. 6).
- The Feoffees believe "that the additional rent to be gained from year-round rentals would be more than offset by an increase in the school population and the need for additional municipal services for Little Neck" (Feoffees' "Comments").
- As a deterrent to out-of-season use, the Feoffees amended their Rules and Regulations in 1999 to impose an additional rent of \$1,000 per week if a "seasonal" cottage is occupied in the winter months. Since the amendment there has been no out-of-season use by "seasonal" tenants (Feoffees' "Comments").
- As all 167 lots are owned by the Feoffees, the entire property is subject to the Clean Waters Act. In September, 2000, the Feoffees entered into an Administrative Consent Order with the Massachusetts Department of Environmental Protection concerning the repair or replacement of the cottages' septic systems. The Order requires all cottages which do not have a satisfactory drip irrigation system to have a tight tank by November 30, 2003. In May 2001 the Department allowed a delay in execution of the Order pending a review by the Town of the possibility of extending the Town's sewer system to Great and Little Neck (DEP Consent Order and DEP letter dated 5/1/01).
- James Engel, chairman of the Board of Selectmen, is quoted saying that the Town needs to work on getting a guarantee that the "intensity of use of Little Neck will remain unchanged" (Ipswich Chronicle, 12/6/01).
- All "seasonal" tenants are charged the same rent and all year-round tenants are charged the same higher rent. The rent does not depend on the situation of the lot, its size relative to others, whether it has good views or not, the valuation placed on it by the Town Assessors, etc.
- The rents do not include the taxes due on the lots; however the Feoffees pay out of the rents the taxes due on the rest of the land at Little Neck and the taxes on the wharf, community center, etc. In FY 96 the lots were assessed at \$12,431,000, the rest of the land at \$923,500, and the wharf, community center, etc., at \$89,200.
- Tenants must clear with the Feoffees before making additions to their cottages, cannot plant trees which grow higher than a shrub, must keep their cottages and yards "in a good state of preservation and cleanliness", cannot "use a radio, television, or such other device" between 11 p.m. and 9 a.m., must take out insurance which shall insure the Feoffees as well themselves "against all injuries to persons occurring in or about their leasehold", etc., etc. (Feoffees' *Rules and Regulations*)
- Except for their annual meeting the Feoffees' meetings are not publicly posted.



- One Feoffee, traditionally the chairman, is designated "manager". A fellow-trustee (James Foley) likens his responsibilities to those of a "mini town manager, a mini works director". (Meeting of the Town Committee on 10/24/01).
- The Feoffees have devoted funds each year to maintaining the amenities at Little Neck (the roads, play areas, beach, wharf, etc.), thereby maintaining the value of the property.
- Nevertheless, over the last ten years the Feoffees' total operating expenses have generally run below 1% of the property's assessed value.
- Since FY 1991 the Feoffees' total operating expenses have been as follows:
 

FY 1991	\$49,357
1992	\$75,253
1993	\$42,569
1994	\$75,314
1995	\$83,063
1996	\$43,624
1997	\$60,006
1998	\$80,015
1999	\$117,736
2000	\$187,948
- The Feoffees' operating expenses since 1985 have included the installation of a water distribution system costing approximately \$100,000, half of which was paid by the tenants; the replacement of the wharf, costing \$33,000 in design, engineering and permitting expenses and \$82,000 for construction; and engineering and legal fees in excess of \$100,000 in connection with the DEP Consent Order (Feoffees' "Comments").

#### **The possibility of a conflict of interest**

- At various times one or more of the Feoffees have also been tenants. Two of the present Feoffees were for a time concurrently both Feoffees and tenants.

#### **Value of the Feoffees' property at Little Neck**

- The land, including the cottage-lots, roadways, and land left open for common use, is assessed by the Town Assessors Office at \$14,828,400. The buildings owned by the Feoffees are assessed as follows: the community building \$85,600, the pier \$54,700, a barn \$8,400. The Feoffees' real estate assets therefore total \$14,977,100. (Figures provided by Frank Ragonese, chief assessor, 12/19/01).
- Prompted by pressure from citizens that the Feoffees increase their contributions to the schools and by proposals from the tenants that they collectively buy out the Feoffees, the Feoffees have in recent years sought separate assessments from LandVest.
- The assessments by LandVest have consistently come in considerably lower than the Town's assessments. For example, in FY1996 the Ipswich assessors assessed the land at Little Neck at \$13,354,500. In 1997 LandVest, assessing the land as one parcel with restrictions limiting 143 of the lots to seasonal use, gave a valuation of \$9 million.
- The Feoffees are currently raising the rents in equal increments over five years to bring them up to "fair market value" as assessed by LandVest.

- The Feoffees have set the yearly rents as follows since the late eighties (data from Feoffees' annual meeting in 1989 and email from Donald Greenough):

<u>Fiscal year</u>	<u>Seasonal</u>	<u>Year-Round</u>
Prior to FY 1990	\$ 400	\$600
1990	600	800
1998	800	900
2000	1,280	1,440
2001	1,760	1,980
2002	2,240	2,520
2003	2,720	3,060
2004	3,200	3,600

- In 1998 "the Feoffees indicated that after FY 2003 the rents would be adjusted annually based upon current appraisal information" (Donald Greenough in email 10/25/01, letter from Donald Whiston 3/20/02).  
The cottages command a good price in the real estate market. Eight cottages were bought by new owners in calendar year 2001. All sold for more than cottage and lot together are assessed for in FY 2002 (Information from Town Clerk's office):

Date of sale	Address	Sale price	FY 2002 Assessment			
			Cottage	Yard	Land	Total
3/01	25 River Rd.	\$331,400	\$77,700	\$500	\$102,800	\$181,000
5/01	9 Middle Rd.	240,000	58,600		100,200	158,800
6/01	35 River Rd.	150,000	31,100		103,200	134,300
6/01	6 Cliff Rd.	332,500	86,600		107,200	193,800
7/01	24 Baycrest	255,000	76,800		70,400	147,200
8/01	4 Cliff Rd.	375,000	78,000		112,300	190,300
8/01	19 King's Way	248,000	41,600		70,400	112,000
11/01	39 River Rd.	240,000	69,700	5,500	102,800	178,000

- 4 Cliff Road has changed hands several times in recent years, with the sale price rising each time: \$120,000 in 5/87, \$146,000 in 8/89, and \$375,000 in 8/01.
- The cottages command good rental prices in the summer. The Feoffees report that typical weekly rental prices in 2001 were between \$650 and \$800 (Feoffees' "Comments").

#### **Offers by the tenants to buy out the Feoffees**

- Since 1999 the tenants have made three offers to purchase Little Neck.
- Last year (2001) they offered \$10,200,000 (Tenants' Coordinating Committee letter dated 9/13/01).
- The Feoffees asked for a deposit of \$167,000, representing \$1,000 per cottage, before they would consider it.
- The Coordinating Committee asked for \$1,700 per cottage to cover "those owners who may not choose to participate" (Letter from Coordinating Committee).
- The Coordinating Committee have made the deposit (Whiston at Feoffees' annual meeting, 1/15/02).

- The Feoffees will review the offer with the School Committee. No offer will be accepted by the Feoffees without the consent of the School Committee (Greenough's letter of 7/25/01, Feoffees' letter to the tenants dated 11/20/01 and Whiston at Feoffees' annual meeting 1/15/02).

#### **The Feoffees' support of the Ipswich schools**

- The Feoffees have made the following payments to the schools since 1976, according to their financial statements in the annual Town Report::

FY	1976	\$7,500	
	1977	7,500	
	1978	0	(i.e. no "gift" is indicated)
	1978	0	(i.e. no "gift" is indicated)
	1979	7,500	
	1980	7,500	
	1981	2,500	
	1982	0	
	1983	0	
	1984	0	
	1985	2,500	
	1986	No Feoffees financial statement	
	1987	0	
	1988	0	
	1989	0	
	1990	0	
	1991	0	
	1992	0	
	1993	4,761	
	1994	0	
	1995	25,000	
	1996	50,000	
	1997	50,000	
	1998	173,000	
	1999	0	(but transfer of \$21,000 to "School Acct")
	2000	25,000	(+ \$25,000 "transfer to School Acct.")
	2001	Financial statement not yet published, 3/27/02	

- The Feoffees handed to the chairman of the School Committee a check for \$282,970.28 at the Feoffees' annual meeting on 1/15/02.
- The Feoffees believe strongly that their payments be used "for special purposes or needs of the schools above and beyond the normal operating expenses funded through the municipal budget process" (letter from attorney Donald Greenough, October 23, 2001).
- The Feoffees say further that if the School Committee, the Selectmen, and the Finance Committee do not agree to a written statement concurring with their position they are prepared to seek judicial or legislative action restricting the use of their payments "for enhancement of the schools" (Letter from Donald Whiston, 3/20/02).

### **The Feoffees' Accounts**

- The only financial statement published by the Feoffees is the two-page financial statement they submit for the Town's annual report.
- For many years past it has been deficient in many respects:
  - It has not distinguished between the Feoffees' real estate assets and the tenants' assets (their cottages).
  - Since FY 1993 it has given essentially the same figure each year for the real estate assets, e.g. \$22,317,500 in FY 1993, \$22,275,300 in FY 2000.
  - It has not distinguished between the real estate taxes paid on the Feoffees' land and buildings and the taxes on the cottages collected by the Feoffees and paid over to the Town.
  - It has shown the balances in various savings accounts but not the interest earned, if any.
  - Nor has it detailed transfers into and out of the savings accounts.
  - Although it has recorded transfers in recent years to a "School Acct." it has not shown the balances in this account.
  - The figures have not always added up, e.g. in FY 1998 "cash receipts" of \$304,779.87 and \$131,828.09 were shown as totaling \$559,607.96.
  - Without explanation different income totals have been shown in different places.
  - The financial statement has not been published until March, half way through the following fiscal year (and school year).
  - There is no indication that the accounts are audited.
- An examination of the Feoffees's accounts for FY 2000 showed deposit slips and cancelled checks agreeing with the chairman's summary of income and expenses and his summary also agreeing with the Feoffees' financial statement in the Town Report. It appeared the accounts for FY 2001 were similarly in order. (Examination by Heather Ellerkamp).

### **The School Committee's relations with the Feoffees**

- Although the Feoffees' contributions to the schools have been much smaller than a beneficiary would normally expect from a trust with assets as valuable as the Feoffees' assets, the School Committee has never publicly reminded the Feoffees of their fiduciary responsibility and has never publicly pressed them to increase their contributions.
- The Feoffees say that in the years when they made no contributions to the schools - in 1982-84, 1986-92 and 1994 - it was "at [the] Superintendent's request" (Feoffees' "Comments").
- The Superintendent's office has not kept a record of the Feoffees' contributions.
- In 1991, following a concerned citizen's letters to the School Committee chairman, the School Committee and the Selectmen sought the opinion of Town Counsel on the Feoffees' legal status. His opinion (3/11/91), submitted confidentially to the two boards, characterized the Feoffees as a "quasi-public trust". He attached the text of the 18<sup>th</sup> century statutes but suggested it was likely that a Massachusetts court would "find the Feoffees' arrangement illegal on state constitutional grounds". He made no mention of William Paine's will. He wrote that if Little Neck were sold, the proceeds could be dedicated "exclusively to the School Budget, exclusively to the General Government Budget, or some combination of both".

- In June, 1996, the same concerned citizen was invited by the School Committee to come and tell them what he knew about the history of the Feoffees. At this meeting, besides sharing a brief written history, he presented a record of the Feoffees' contributions since 1976 as reported annually in the Town Report. He pointed out that their contribution of \$25,000 in FY 1995 represented only 0.19% of the assessed value of the Feoffees' assets at Little Neck (then \$13,354,500).
- In the months following this meeting the School Committee appointed a sub-committee on the Feoffees. Their deliberations were kept confidential.
- The then Superintendent, as a resident of Little Neck, recused himself from discussions of the Feoffees' responsibility to the schools.
- In February, 2001, following growing citizen concern, the School Committee invited the chairman of the Feoffees, Donald Whiston, to an open meeting of the Committee to talk about the Feoffees. He spoke at length, leaving little time for questions or discussion. The majority of the Committee asked no questions and did not press him on the size of the Feoffees' contributions. The School Committee chairman made no statement. The Committee's minutes record that Mr. Whiston appeared before the Committee but do not record any of the brief discussion that followed. (Meeting on 2/14/01).
- Following this meeting 75 citizens signed a petition to put an article on the warrant for the April Town Meeting providing for the appointment of a Town committee to look into the affairs of the Feoffees.
- Counsel for the School Committee wrote to the Superintendent of Schools on March 26 urging that the School Committee "take some public position rather than remain silent...It should be careful not to appear out of step with the citizens' desire to maximize contributions to the school system". He concluded: "The School Committee should be working on a long-range plan with the Feoffees rather than reacting to issues brought before them by the Feoffees or by the public" (Letter from Attorney Richard M. Kallman, 3/26/01).
- At Town Meeting on April 2 the School Committee voted against the appointment of a Town committee. (The Selectmen and the Finance Committee voted for it).
- On January 17, 2002, the School Committee voted unanimously "to go forward with investigating the task of rewriting the Feoffees' trust and to begin the process by asking Mr. Hopping, as a member of the town committee on the Feoffees, to inform them of the School Committee's vote" (School Committee minutes).

Robert J. Bonsignore, Chairman  
 Heather Ellerkamp  
 Mary Harrington  
 Barry Hopping  
 Harry Lampropoulos  
 Harvey A. Schwartz  
 Robert K. Weatherall

March 27, 2002

66



ATA 4/1/12

(2) to raise and appropriate the sum of \$1,194,579 for the FY03 operating, debt service, and capital expenses of the Wastewater Division, Department of Utilities, said sum to be offset by revenues from the sewer division during FY03.

Simple majority

ARTICLE 14 (Chapter 90)

I move that the Town vote:

- (1) to raise and appropriate the sum of \$109,470 to engage engineering services and to acquire any related materiel and/or services for the construction and maintenance of roads and bridges under Chapter 90 of the General Laws, as amended; and
- (2) to authorize the Board of Selectmen to apply for, accept, and expend without further appropriation any federal and/or state grants that may be available for the aforementioned purposes.

Simple majority

ARTICLE 15 (Committee Reports)

I move that the Town vote: a) to accept the reports of, and continue the following committees as standing committees of the Town: Hall-Haskell House Committee, Historic District Study Committee, Commuter Rail Committee, Open Space Committee, School Building Needs Committee; and the School Building Committee; and the Ipswich Coalition for Youth.

*with respect to* With respect to the Town Committee investigating the operations and financial records of the Feoffees of the Grammar School, as established by action under Article 27 of the April 02, 2001, Annual Town Meeting, I move that the Town vote to continue said Committee for one additional year, the membership to be re-appointed to re-filled in the same manner as authorized under Article 27 of the April 02, 2001, Annual Town Meeting.

Simple majority

*see, passed  
committee  
continue*

67

Minutes from the Committee selected by the Town of Ipswich to look into  
the Feoffees  
Wednesday, May 15, 2002, 7:00 p.m.

All members except Mary Harrington were in attendance.

Robert Bonsignore started the meeting.

Barry Hopping stated that the School Committee has a meeting scheduled for June 6<sup>th</sup> at 7:30 pm at which Don Greenough will present the proposal for the purchase of Little Neck.

The discussion then started on developing a new trust agreement based on our findings from the previous months. Harvey suggested that a subcommittee from the school committee could join our group.

It was unanimous that the Feoffees should retain autonomous control of expenditures, with the school committee giving proposals. This would eliminate the pressure that could be expected from the Finance Committee and the School Committee to use these funds for general matters in tuff fiscal times.

The design of the new Feoffees was then discusses. Some of the ideas presented were:

5 members, 3 year term (no term limit), appointed (not elected), 2 members from the community, 1 member each from the School Committee, Finance Committee and Selectmen. Both allowing members of each committee or appointed by each of the committee was discussed.

It was agreed that to eliminate the conflict of interest issue, as long as the property is held and rent is determined by the Feoffees, no tenant can be a member of the Feoffees.

Need to clearly state open meeing law and make all documents public.

The next meeting will be scheduled after summer vacation.

Meeting adjourned.

68

# GENERAL LAWS OF MASSACHUSETTS

## PART I. ADMINISTRATION OF THE GOVERNMENT.

### TITLE III. LAWS RELATING TO STATE OFFICERS.

#### CHAPTER 30A. STATE ADMINISTRATIVE PROCEDURE.

##### Chapter 30A: Section 11A. Definitions.

Section 11A. The following terms as used in section eleven A %p1/2%p shall have the following meanings:

""Deliberation", a verbal exchange between a quorum of members of a governmental body attempting to arrive at a decision on any public business within its jurisdiction.

""Emergency", a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

""Executive session", any meeting or part of a meeting of a governmental body which is closed to certain persons for deliberation on certain matters.

""Governmental body", a state board, committee, special committee, subcommittee or commission, however created or constituted within the executive or legislative branch of the commonwealth or the governing board or body of any authority established by the general court to serve a public purpose in the commonwealth or any part thereof, but shall not include the general court or the committees or recess commissions thereof, or bodies of the judicial branch, or any meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it, nor shall it include the board of bank incorporation or the Policyholders Protective Board.

""e public", when the records of an executive session have been approved by the members of the respective governmental body attending such session for release to the public and notice of such approval has been entered in the records of such body.

""Meeting", any corporal convening and deliberation of a governmental body for which a quorum is required in order to make a decision at which any public policy matter over which the governmental body has supervision, control, jurisdiction or advisory power is discussed or considered; but shall not include any on-site inspection of any project or program.

""Quorum", a simple majority of a governmental body unless otherwise defined by constitution, charter, rule or law applicable to such governing body.

Return to:

**[\\*\\* Next Section \\*\\*](#)** **[Previous Section](#)** **[\\*\\* Chapter Table of Contents \\*\\*](#)** **[Legislative Home Page](#)**

# GENERAL LAWS OF MASSACHUSETTS

## PART I. ADMINISTRATION OF THE GOVERNMENT.

### TITLE III. LAWS RELATING TO STATE OFFICERS.

#### CHAPTER 30A. STATE ADMINISTRATIVE PROCEDURE.

##### Chapter 30A: Section 11A1/2. Open meetings of governmental bodies.

Section 11A1/2. All meetings of a governmental body shall be open to the public and any person shall be permitted to attend any meeting except as otherwise provided by this section.

No quorum of a governmental body shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as provided by this section.

No executive session shall be held until the governmental body has first convened in an open session for which notice has been given, a majority of the members of the governmental body have voted to go into executive session and the vote of each member is recorded on a roll call vote and entered into the minutes, the presiding officer has cited the purpose for an executive session, and the presiding officer has stated before the executive session if the governmental body will reconvene after the executive session.

Nothing except the limitations contained in this section shall be construed to prevent the governmental body from holding an executive session after an open meeting has been convened and after a recorded vote has been taken to hold an executive session. Executive sessions may be held only for the following purposes:

(1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of an individual, provided that the individual to be discussed in such executive session has been notified in writing by the governmental body, at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties.

A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) to be present at such executive session during discussions or considerations which involve that individual.

(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.

(c) to speak in his own behalf.

(2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session has been notified in writing by the governmental body at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) to be present at such executive session during discussions or considerations which involve that individual.

(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.

(c) to speak in his own behalf.

(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, and to conduct collective bargaining sessions.

(4) To discuss the deployment of security personnel or devices.



(5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.

(6) To consider the purchase, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.

(7) To comply with the provisions of any general or special law or federal grant-in-aid requirements.

This section shall not apply to any chance meeting or social meeting at which matters relating to official business are discussed so long as no final agreement is reached. No chance meeting or social meeting shall be used in circumvention of the spirit or requirements of this section to discuss or act upon a matter over which the governmental body has supervision, control, jurisdiction, or advisory power.

Except in an emergency, a notice of every meeting of a governmental body subject to this section shall be filed with the secretary of state, and a copy thereof posted in the office of the executive office for administration and finance at least forty-eight hours, including Saturdays but not Sundays and legal holidays, prior to the time of such meeting. The notice shall be printed in easily readable type and shall include the date, time and place of such meeting. Such filing and posting shall be the responsibility of the officer calling such meetings.

A governmental body shall maintain accurate records of its meetings, setting forth the date, time, place, members present or absent and action taken at each meeting, including executive sessions. The records of each meeting shall become a public record and be available to the public; provided, however, that the records of any executive session may remain secret as long as publication may defeat the lawful purposes of the executive session, but no longer. All votes taken in executive sessions shall be recorded roll call votes and shall become a part of the record of said executive sessions. No votes taken in open session shall be by secret ballot.

A meeting of a governmental body may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction except when a meeting is held in executive session; provided, that in such recording there is no active interference with the conduct of the meeting.

Upon qualification for office following an appointment or election to a governmental body, a member shall be furnished by the state secretary with a copy of this section. Each member shall sign a written acknowledgment that he has been provided with such a copy.

The attorney general shall enforce the provisions of this section.

Upon proof of failure by any governmental body or by any member or officer thereof to carry out any of the provisions of this section, any justice of the supreme judicial court or any justice of the superior court sitting in the county in which the governmental body customarily meets or in the absence of such sitting of court then any justice of the superior court sitting in Suffolk county shall issue an appropriate order requiring such governmental body or member or officer thereof to carry out such provision at future meetings. Any such order may be sought by complaint of three or more registered voters, by the attorney general, or by the district attorney for the district in which the governmental body is located. The order of notice on the complaint shall be heard no later than ten days after the filing thereof or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders with respect to any of the matters referred to in this section may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of this section. In the hearing of such complaint the burden shall be on the respondent to show by a preponderance of the evidence that the actions complained of in such complaint were in accordance with and authorized by this section, by section nine G of chapter thirty-four or by section twenty-three B of chapter thirty-nine. All processes may be issued from the clerk's office in the county in which the action is brought and, except as aforesaid, shall be returnable as the court orders.

Such order may invalidate any action taken at any meeting at which any provision of this section has been violated, provided that such complaint is filed within twenty-one days of the date when such action is made public.

Any such order may also, when appropriate, require the records of any such meeting to be made public, unless it shall have been determined by such justice that the maintenance of secrecy with respect to such records is authorized. The remedy created hereby is not exclusive, but shall be in addition to every other available remedy.

The rights of an individual set forth in this section relative to his appearance before a meeting in an executive or open session, are in addition to the rights that an individual may have from any other source, including, but not limited to rights under any laws or collective bargaining agreements, and the exercise or nonexercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

Re to:

69

## REPORT OF THE TOWN COMMITTEE ON THE FEOFFEEES

April 1, 2002

Those of you were here at last year's Town Meeting, and stayed till midnight, will remember that you voted to set up a committee to inquire into the operations and financial records of the Feoffees, and report back in a year.

I am reporting for the committee, in the absence of our chairman.

Your vote last year directed the Moderator to appoint a seven-member committee— one a Selectman, one a member of the Finance Committee, one a member of the School Committee, and four unaffiliated members.

Harry Lampropoulos is the Selectmen, Mary Harrington represents the Finance Committee, and Barry Hopping the School Committee.

The four unaffiliated members are Robert Bonsignore, whom we appointed chairman, Heather Ellerkamp, Harvey Schwartz, and myself.

We have met virtually every month since last June and have covered a great deal of ground. The Feoffees met with us at one meeting. Attorney Don Greenough, representing the Feoffees, has attended many of our meetings and has helped us with our information-gathering. An attorney from the Attorney General's office also came down to meet with us.

We present our findings in the handout which I hope you picked up coming in. It would take too long to go through them all in detail here. We hope you will read them at your leisure. We know a lot more about the Feoffees than at the beginning. One important thing is how to pronounce their name. They are the "Feoffees", not the "FEEFEES".

The key things we have learned are the following, stating them as simply and briefly as possible:

1. The Feoffees as an institution were set up by the Town in November, 1650, by a Town Meeting vote. In other words they are, and should be, treated as a Town committee.
2. The Town appointed the first members, but very early on, the existing members were authorized to make the new appointment when the departure of a Feoffee created a vacancy..  
For more than 300 years the Feoffees have been a self-perpetuating body. The Town has had no hand in choosing them.  
Unlike the members of other Town boards, a Feoffee, once appointed, serves until he dies or resigns.
3. In the 18<sup>th</sup> century some issues came between the Town and the Feoffees and the Town sought legislation to clarify matters.  
The Great and General Court passed a statute, which was confirmed more than once and has not been repealed, appointing the three senior Selectmen a joint

committee with the Feoffees. That is why Jim Engel could tell us at last year's Town meeting that he was a Feoffee. But it is a long time – the Feoffees say 80 years - since the three senior Selectmen have formed a working committee with the Feoffees, participating in their decision-making. No one faults them for their non-participation. They have enough on their plate to attend the Feoffees' monthly meetings.

4. The Feoffees were set up as a board of trustees to hold in trust land given by the Town, and by private donors, as an endowment for the grammar school – which back then meant a school preparing students for college. They are the administrators of a trust, and their duty is to generate an income from the property they hold to support the Ipswich schools.

5. The one piece of land which they continue to hold is Little Neck, which was bequeathed to the Town by a leading Ipswich citizen, William Paine, in 1660. At that time Little Neck was open land and it was worth what farmers were prepared to pay to graze their cattle there. Today it is as you see it, and it is assessed by the Assessors at just under 15 million dollars. William Paine gave Ipswich quite a present.

6. This year the Feoffees have made a notable contribution to the schools, and we are delighted, but it is only recently that their contributions have begun making a difference. There were ten years in the 80s and 90s when they contributed nothing. In other years their contribution was no more than a token. The reason is that they were charging only a token rent for the lots the Little Neck cottages stand on. In FY 2000 they started raising the rents in stages, to bring them up to market value. That is how they could write a check for \$288,000 this year after giving only \$25,000 in three years ago. But they are using an estimate of market value which can be questioned. They have retained a consultant who values the land at Little Neck at \$10 million, a third less than the Town Assessors, who assess the rest of us in town, assess it at.

7. On the other hand we are ready to praise them for the way they have looked after the property William Paine bequeathed to them. Little Neck is an attractive place and it reflects their good management. For 30 years or more they have allowed only 24 of the 167 cottages to be occupied year-round. Like the Selectmen and others in town, we would like to see Little Neck remain that way. While we believe the Feoffees should seek a high return on their assets it is no part of our thinking that they should put Little Neck up for sale to the highest bidder, to a Donald Trump for example.

8. It has taken a year for us to learn what we have learned about the Feoffees because they publish very little about themselves. Unlike other Town boards the they do not post their meetings – the one exception being their annual meeting at which they present their check to the Town. They present an oral report at the annual meeting but no written report. They normally publish a financial

statement in the Town Report but appear not to have done so this year. They have no hand-out to tell you who they are and what they do. The cry these days is for institutions to be transparent. The Feoffees are very far from being a transparent institution.

So what are our conclusions? We started out from different positions but after a year's work we agree on the following:

We believe the time has come to put the Feoffees on a modern footing. Most importantly, we believe they should be appointed or elected like other Town boards. We are not saying the present Feoffees should step down, but they should come up for reappointment or re-election every three years or so like the members of other town boards. They need to be answerable to the Town.

It is also time to ask how many Feoffees there should be. If the three senior Selectmen sat with them there would be seven of them. We believe that the 18<sup>th</sup> century statute should be crossed off the books but that the number of Feoffees should not be left at four. There should be an odd number as on other Town boards, say 5 or 7.

We believe the Feoffees should be required to post their meetings, to observe the open meeting rules, and to publish a written annual report

Lastly, there is an urgent need to nail down what the Feoffees' contributions to the schools may be spent on. William Paine bequeathed Little Neck to help pay the schools' regular operating expenses. There is nothing in his will or in the 18<sup>th</sup> century statutes to prevent the contributions being used to help meet on-going expenses. With the School Committee and the Feoffees themselves, we believe strongly that their contributions should supplement the school budget, not be used to help meet ordinary expenses. That way, the money will allow the schools to do things they could not do otherwise. It is exciting to think of the possibilities.

Most of this will require a new legal instrument supplanting the language of William Paine's will and the provisions of the 18<sup>th</sup> century statute.

It will need to be approved by a judge and almost certainly the legislature but that need not stand in our way. We have begun thinking what should be in this new instrument but we have not had time to take it very far.

We would like to have the committee continued so that we can work on a new instrument and bring it to the Town. The School Committee have also come to the conclusion that a new trust instrument is desirable and have told us that they would like to work on it with us. We feel the information we have gathered this past year has put us in a good position to take on the job.

How the Feoffees fulfil their responsibilities is a matter of interest to the whole Town – witness the vote at last year's Town Meeting.

We believe the job is an appropriate extension of the job you gave us last April.

I move that the committee be continued for this purpose.

*RMA K. Winter*

70



# **FEES OF THE GRAMMAR SCHOOL**

Financial Statements

June 30, 2002

JAN 2 0

# FINANCE FEES OF THE GRAMMAR SCHOOL

## Table of Contents

	<u>Page</u>
Independent Auditors' Report	1
Exhibit A - Statement of assets, liabilities, and net assets - cash basis as of June 30, 2002	2
Exhibit B - Statement of activities - cash basis for the year ended June 30, 2002	3
Notes to financial statements	4

# DAN CLASBY & COMPANY

Certified Public Accountants

-1-

## INDEPENDENT AUDITORS' REPORT

To the Board of Managers  
Feoffees of the Grammar School  
Ipswich, Massachusetts

We have audited the statements of assets, liabilities, and net assets - cash basis of **Feoffees of the Grammar School** (a non-profit organization) as of June 30, 2002, and the related statement of activities - cash basis for the year then ended. These financial statements are the responsibility of the Trust's managers. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by the Trust's managers, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, these financial statements were prepared on the cash basis of accounting and are not intended to be presented in conformity with generally accepted accounting principles.

In addition, generally accepted accounting principles require that land be stated at cost. The Organization has stated land at its assessed value and that, if generally accepted accounting principles had been followed, the account and the net assets would have been decreased by \$15,419,900.

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets, liabilities, and net assets of **Feoffees of the Grammar School** as of June 30, 2002, and its activities for the year then ended, on the basis of accounting described in Note 1.



September 2002

-2-

## FINANCIAL STATEMENTS OF THE GRAMMAR SCHOOL

Statement of Assets, Liabilities, and Net Assets -  
Cash Basis

As of June 30, 2002

Assets

Cash - operating	\$ 17,425
Cash - savings	270,026
Land and buildings - book value	<u>15,419,900</u>
Total Assets	\$ <u>15,707,351</u>

Liabilities and Net Assets

Liabilities	\$ _____
Total Liabilities	_____
Net assets:	
Unrestricted	<u>15,707,351</u>
Total Liabilities and Net Assets	\$ <u>15,707,351</u>

See Independent Auditor's Report.

The accompanying notes are an integral part of these financial statements.

## OFFICES OF THE GRAMMAR SCHOOL

## Statement of Activities - Cash Basis

For the Year Ended June 30, 2002

Support and Revenue		\$ 334,043
Building collections		361,756
Rents		<u>11,449</u>
Interest		
Total revenue		<u>707,248</u>
Expenses		334,043
Real estate taxes		282,970
Gift to the school		52,384
Water		9,600
Salaries		8,811
Legal		7,266
Maintenance		6,475
Land		6,104
Police		5,095
Insurance		3,962
Contracting fees		1,400
Documentation		822
Office expenses		316
Telephone		<u>160</u>
Meals		
Total expenses		<u>719,408</u>
Change in net assets		( 12,160)
Net assets at beginning of year		<u>15,719,511</u>
Net assets at end of year		<u>\$ 15,707,351</u>

See the Auditor's Report.  
 These are an integral part of these financial statements.

## FOFFEES OF THE GRAMMAR SCHOOL

### Notes to Financial Statements

#### (1) Summary of significant accounting policies

##### (a) Organization

The Feoffees of the Grammar School (the "Trust") was established by the Town of Ipswich (the Town) by a vote of Town Meeting on November 14, 1650. The vote established a four-member committee to hold land granted by the Town for the support of a "grammar school". The Trust came into possession of the real property currently held in 1660 through the bequest of a member, an original member of the 1650 committee.

The Trust owns a parcel of land of approximately thirty five (35) acres in Massachusetts. On this land are situated one hundred sixty seven (167) cottages, of which forty three (143) are seasonal and twenty four (24) are year round. The cottages may only be occupied between April 1 and November 30 each year. The Trust and pays to the Town the real estate taxes on the land and on such structures as a community center and a wharf; in addition they collect for the Town the real estate taxes assessed on the cottages.

The Trust designates its net earnings to be for the benefit of the children of the Town of Ipswich. With no benefits accruing to its trustees, it has considered itself to be a private organization. However until 1997 no federal or state tax returns were filed by the Trust. The position of the Trust that it was a "quasi-public trust" and therefore was not required to file the tax returns.

The Trust is supported primarily through rent collections.

##### (b) Financial statement presentation

The Trust has adopted Statement of Financial Accounting Standards (SFAS) No. 117, "Financial Statements of Not-for-Profit Organizations". Under SFAS No. 117, the Trust is required to report information regarding its financial position and activities according to three asset categories: unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets.

The financial statements of the Trust are prepared on the cash basis of accounting. The cash basis accounting used by Feoffees of the Grammar School recognizes income and the expenses when received rather than when earned and recognizes expenses when paid when the obligation is incurred.

##### (c)

The preparation of financial statements requires management to make estimates and judgments that affect certain reported amounts and disclosures. Accordingly, actual results may differ from those estimates.

71



From: "Robert Weatherall" <utrum@ipswich.org>  
To: rBonsignore@aol.com , harvey@TheEmploymentLawyers.com , mph@ronansegal.com ,  
p-h@attbi.com , ellerkamph@attbi.com , bhopping@attbi.com , selectmanlamp@hotmail.com  
Date: Sun, Jun 9, 2002, 10:12 AM  
Subject: Meeting on June 12

---

Hi: Robert agrees that we should meet this Wednesday, June 12, although he will not be able to join us - he will be in California. We can continue discussing what we think should be in the new trust instrument. I have reserved meeting room C at 7:00 p.m.

I attended the School Committee last week at which Don Greenough laid before the committee the offer from the tenants. He presented the offer saying that the Feoffees considered it one worth bringing to them, although there there might be no price satisfactory to the committee. He may have put it this way because the committee have had notice of the offer since the Feoffees' annual meeting without offering any response. (Don Whiston told me in the street last week that he was eager to have things settled).

Greenough confirmed that the offer was for \$10,200,000 and that 144 of the 167 tenants had put up the \$167,000 deposit to show that the offer was serious.

Don Whiston, who was present, did not speak. Also present were at least three members of a five-member tenant committee who have incorporated to better handle any purchase negotiations. The three were Richard Doherty, Elaine Lucas, and Jack Reardon. Doherty, who spoke after Greenough, said that the tenants wanted to keep Little Neck as it is, with only 24 cottages (as at present) occupied year-round. They have not settled on the ownership structure but they have in mind either a condominium arrangement or a cooperative.

The only member of the School Committee to speak was Jeffrey Loeb who said that for him "the key issue" was keeping Little Neck as it is. He worried that the tenants, as owners, could one day change their minds. Don Greenough answered that a conservation restriction on the open space, restricting enlargement of the present buildings, could be perpetual. (It occurs to me that if the sale, when it happens, has to be approved by a special statute, the statute could include something about maintaining Little Neck as a summer colony).

I should say that neither Joan Arsenault nor Barry were present. No one on the committee questioned the size of the offer or asked how the tenants arrived at it. The committee took the offer under advisement without further comment. Richard Allen, who was present, will undoubtedly advise the school committee on the offer. I believe he has asked to meet with the committee next week. I hope the school committee are prepared to discuss their response in open session just as we have have been prepared to comment openly on what we think the land at Little Neck is worth. There is also the question: might it be worth accepting a less-than-maximum sale price (I am not saying \$10.2 million) so that the new Feoffees are freed of all the management and political issues ownership of Little Neck raises and can devote themselves to spending their income in the best way? Bob

72

From: "Robert Weatherall" <utrum@ipswich.org>  
To: rBonsignore@aol.com  
Date: Wed, Jun 12, 2002, 2:34 PM  
Subject: Summary of what I think we decided at our last meeting

---

Hi: I thought it worth recording what we seemed to be agreed on in our discussion of the new trust instrument when we met in May. Hopefully we can build on this from meeting to meeting and avoid going over ground we have already covered, rather as we compiled the Established Findings. This will allow us in due course to bring a proposal on which we are agreed to a meeting with the School Committee, and with their lawyer Richard Allen.

These are the issues on which we came to some agreement on May 15:

How many Feoffees should there be? We agreed on 5. They should be residents of Ipswich. They should not be Little Neck tenants.

Should they be elected or appointed? The majority of us thought they should be appointed. You were the one person with some doubts on this, thinking it might be better if they were elected.

How long should their terms be? We agreed on 3 years, with the opportunity for reappointment.

Who should appoint them? We agreed that one should be appointed by the School Committee, one by the Selectmen, one by the Finance Committee, and two by the Moderator. Most of us thought that the three boards should be barred from choosing one of their own. Barry held out for letting the School Committee choose one of its members. (We did not discuss whether a board could appoint a member of another board ( e. g. the Selectmen choose a member of the School Committee).

Could the boards and the Moderator appoint one or more of the present Feoffees if they wished? We didn't give much thought to this but most of us seemed to think the opportunity should be there - it makes sense politically not to tell the present Feoffees that they can't be candidates.

Who decides what the Feoffees' contributions are spent on? How do we ensure that the Feoffees' contributions supplement the School budget and are not seized on as an opportunity to reduce the Town's appropriation? We agreed that the School Committee should forward proposals to the Feoffees (originating with the Superintendent, principals, or groups of teachers) but that the Feoffees should have the final say as to which proposals to fund, and how generously.

How to make the Feoffees answerable to the Town? We agreed that they should be treated as a Town board - i.e. be required to comply with the open meeting law, publish a written report each year on their activities, and give an annual accounting of their assets, their income, and their expenses.

Is there a way to make sure that they generate an income from their property at Little Neck in keeping with its assessed value? We discussed this without coming to any agreed conclusion.

What should we say is the purpose of the trust? We postponed any discussion of this till later.

Here's an unsolicited legal opinion from a non-lawyer: our case differs from the Barnstable case because the 18th century statutes defines the purpose of the Feoffees' assets very broadly. "for the use of

school-learning" in Ipswich for ever. Here and there the statutes also refer to the Feoffees' role in running the grammar school, but this is still a wide umbrella. There is nothing here to make it difficult for the Feoffees to spend their income. In the Barnstable case the testator wanted his money to buy schoolbooks, that and nothing else. The new trustee persuaded the judge to apply the cy pres doctrine and allow the trust to buy a long list of educational materials and equipment. I think a judge is likely to say that the support of school-learning is a good enough purpose for us, needing no amplification, and that the only change he should make under cy pres is to add a declaration along the lines of the declaration the judge added in the case of Barnstable, "that the purpose of the trust is not so much to benefit the taxpayers of the town by lessening the burden of taxation as to enrich the educational experience of the public school students and increase the efficiency of the public school system". If I am right we don't have much more to do to complete a first draft of the new instrument. Bob

73

From: "Robert Weatherall" <utrum@ipswich.org>  
 To: RBonsignore@aol.com , bhopping@attbi.com  
 : harvey@TheEmploymentLawyers.com , ellerkamph@attbi.com , mph@ronansegal.com ,  
 selectmanlamp@hotmail.com  
 Date: Thu, Sep 19, 2002, 2:15 PM  
 Subject: Yesterday's meeting

---

Hi: We were sorry you couldn't make yesterday's meeting. This is to let you know what transpired.

We used the meeting to go over the thoughts we had about the new trust structure when we met in May and to see if we could come to any definite conclusions. We agreed on the following:

1. That there should be 5 Feoffees, that they should be residents of Ipswich, and that they should not be Little Neck tenants.
2. That they should be appointed, not elected.
3. That they should have three-year terms, but with the possibility of reappointment.
4. That one should be appointed by the Selectmen, one by the Finance Committee, one by the School Committee, and two by the Moderator. The three boards should not be free to appoint one of their own but another board or the Moderator could do so if they felt a particular board member would make a good Feoffee.
5. That the present Feoffees should be eligible to be appointed under these provisions.
6. That the Feoffees should be answerable to the Town by observing the open meeting law (incumbent on them in any case as a Town board) and by publishing a written report each year on their activities and by giving an annual written accounting of their assets, income, and expenses.
7. How do we ensure, or at least make it the general rule, that the feoffees' contributions supplement the School budget and are not seized on as an opportunity to reduce the Town's appropriation. We agreed that the School Committee should forward spending proposals to the Feoffees but that the Feoffees should have the final say as to which proposals to fund.
8. We agreed that a judge is not likely to think we need a rewording of the purpose of the trust under cy pres. Under the 18th century statutes the Feoffees hold their assets "for the use of school-learning in [Ipswich] forever". This is a broad enough purpose. There is no need, as in the Barnstable case, to have it broadened. On the other hand we should ask for the same qualifying language the judge allowed in the Barnstable case, namely "that the purpose of the trust is not so much to benefit the taxpayers of the town by lessening the burden of taxation as to enrich the educational experience of the public school students and increase the efficiency of the public school system".
9. What language would ensure that the Feoffees contribute as much to the schools as one would expect from the size of their assets? We spent a fair amount of time discussing this without coming to a conclusion. Is it a question of how they handle their operating expenses, which are likely to fluctuate and in some years, because of an emergency, may be very high? Or is it more narrowly the issue of their net contribution to the schools? Harvey volunteered to draft some language for the next meeting.

We agreed that we were close to ready to sharing our thinking on the new draft instrument with the School Committee.

On other matters, Ed Traverso came in Barry's absence to answer any questions we might have about the School Committee's discussions regarding the Feoffees. He said that their lawyer Rick Allen had asked members to send him their suggestions on the trust, and he had sent in his, but he didn't know if others had done so. He added that the School Committee had asked for

Yesterday's meeting

Mon, Sep 30, 2002 8:49 AM

the Feoffees' year-end financial statement for the year ending 6/30/01 and the Feoffees had provided what was still no more than a draft. Heather undertook to ask Whiston or Greenough for a copy for our committee.

We agreed to meet again on Wednesday, October 2, at 7:30 p.m. (Most of us favored 7:30 over 7:00).

Before adjourning we noted that most other Town boards and committees rotate the duties of chairman from year to year. With all due respect to you, Robert, we agreed that we should talk about this on October 2.

To all of you receiving copies of this: please let me know if any of the above needs amending.

Bob



74

**Minutes from the Committee selected by the Town of Ipswich to look into  
the Feoffees**

**Wednesday, September 18, 2002, 7:00 p.m.**

All members except Robert Bonsignore and Barry Hopping were in attendance.

The meeting was started by reviewing the items listed in Bob Weatherall's email to the group which described the various items discussed at the last meeting.

It was agreed that the purpose of the Feoffees should stay the same except for the addition of the "enrichment" section as included in the Barnstable example.

We continued the discussion on how an appointee would be chosen by the town committee, whether or not to allow appointees from within or not. It was brought up that a member from one committee could be appointed by another committee.

Harvey agreed to work on language similar to a condo association which addresses proper rental income and amounts made available for school expenditures.

Harvey then asked Ed Traverso, guest, to discuss the latest School Committee happenings in the absence of Barry H. Ed stated that Mr. Allen (SC's legal counsel on this matter) is urging cooperation with our group and that the SC is proceeding on obtaining their own independent valuation of Little Neck.

Several administrative matters were discuss:

Heather E. is going to call Don Whiston to obtain the report for 2001.

We agreed to forthwith return the valuation/appraisal that was loaned to our group by Don Greenough. Heather E. is going to make sure it gets returned from Robert Bonnsignore.

The next meeting is scheduled for Wednesday, October 2, 7:30 pm. Items to be included on the agenda is nomination for a Chairman for the new year and creation of a timeline for our committee's goals.

Meeting adjourned.

75

From: "Robert Weatherall" <utrum@ipswich.org>  
To: RBonsignore@aol.com , bhopping@attbi.com  
: harvey@theemploymentlawyers.com , ellerkamph@attbi.com , mph@ronansegal.com ,  
selectmanlamp@hotmail.com , bhopping@attbi.com  
Date: Wed, Sep 25, 2002, 8:49 AM  
Subject: Re: Yesterday's meeting

---

Dear Robert: Congratulations on your good news, domestic and legal.

I am puzzled, though, by your second paragraph. We expressly asked the town at Town Meeting to continue us so that we could work on a new trust structure for the Feoffees. That is our current agenda. For the record, attached is a copy of my speech at Town Meeting. We all discussed what should go into the speech at our committee meeting in February and again in March. I think we are doing what the Town expects us and wants us to be doing. Bob

-----  
From: RBonsignore@aol.com  
To: utrum@ipswich.org, bhopping@attbi.com  
Cc: harvey@theemploymentlawyers.com, ellerkamph@attbi.com,  
mph@ronansegal.com, selectmanlamp@hotmail.com  
Subject: Re: Yesterday's meeting  
te: Sun, Sep 22, 2002, 11:37 AM

THANK YOU FOR YOUR NOTE IT HAS BEEN TO LONG SINCE WE SPOKE DIRECTLY I WAS IN  
A 15 HOUR MEDIATION THAT RESULTED IN A \$28.5 M SETTLEMENT SO I HPOE YOU WILL  
EXCUSE MY ABSENSE I HAVE SEVERAL OTHER PIECES OF GOOD NEWS mY WIFE IS  
PREGNANT AND I HAVE FORMED A LIMITED PARTNERSHIP WITH SHAHEEN AND GORDON IN  
NH. MY PARTNERS WIFE IS RUNNUNG FOR US SENATE . WE HAVE OFFICES IN MAINE NH RI  
AND VT THE FIRMS NAME IS BONSIGNORE SHAHEEN GORDON BREWER AND NOONAN  
ENOUGH CATCH UP I WAS ESPECIALLY SORRY I MISSED THE MEETING BECAUSE I  
DEEPLY FEEL WE HAVE LOST TRACK OUR PRIMARY ROLE AS VOTED ON IS TO REPORT ON THE  
FEOFEES KEEP IN MIND BOB W FORGOT/ CHOSE NOT TO PUT THE ADDITIONAL PURPOSE OF DRAFTING  
A NEW AGRREMENT TO A TOWN VOTE WE DID DECIDE TO TAKE A STAB AT IT BECAUSE OUR WORK  
WAS DONE IT IS NO LONGER DONE WE NEED TRO FIRST REPORT/ UPDATE OUR FINDINGS TO REFLECT  
WHAT HAS HAPPENED SINCE TOWN MEETING

Re: Yesterday's meeting

Mon, Sep 30, 2002 9:00 AM

From: "Robert Weatherall" <utrum@ipswich.org>  
To: RBonsignore@aol.com  
Date: Wed, Sep 25, 2002, 3:46 PM  
Subject: Re: Yesterday's meeting

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Yes!

-----  
From: RBonsignore@aol.com  
To: utrum@ipswich.org  
Subject: Re: Yesterday's meeting  
Date: Wed, Sep 25, 2002, 11:26 AM

DID YOU READ VERBATIM THE SPEECH?

76

From: "Harvey A. Schwartz" <harvey@TheEmploymentLawyers.com>  
Reply-To: <harvey@TheEmploymentLawyers.com>  
<Robert Weatherall" <utrum@ipswich.org>, <RBonsignore@aol.com>  
Cc: <mph@ronansegal.com>, <selectmanlamp@hotmail.com>, <harvey@TheEmploymentLawyers.com>, <ellerkamph@attbi.com>, <bhopping@attbi.com>  
Date: Fri, Sep 27, 2002, 8:08 AM  
Subject: RE: Yesterday's meeting

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**Things seem to be getting unnecessarily contentious. Robert, how about if you put together an agenda for the upcoming meeting and circulate it by email. Anybody who wants to add an item can do so. That way we'll have some structure to the meeting and, hopefully, we can get ourselves back on track and moving forward.**

Harvey A. Schwartz

Rodgers, Powers & Schwartz LLP

18 Tremont Street

Boston MA 02108

(617) 742-7010

(617) 742-7225 - fax

email: harvey@TheEmploymentLawyers.com

Website: www.TheEmploymentLawyers.com

-----Original Message-----

From: Robert Weatherall [mailto:utrum@ipswich.org]

Sent: Friday, September 27, 2002 10:57 AM

To: RBonsignore@aol.com

Cc: mph@ronansegal.com; selectmanlamp@hotmail.com;

harvey@theemploymentlawyers.com; ellerkamph@attbi.com; bhopping@attbi.com

Subject: Re: Yesterday's meeting

Dear Robert: Let's discuss this at Wednesday's meeting. The purpose of my email of September 19 was to record what we as a committee discussed and agreed on. The only person who has sent me a correction is Harvey, who emailed us all on Sept. 20. You should raise your questions with the committee. Bob

-----  
From: RBonsignore@aol.com

To: utrum@ipswich.org

Subject: Re: Yesterday's meeting

Date: Thu, Sep 26, 2002, 9:32 AM

WHY DID YOU TELL ME THE OPPOSITE WHEN I ASKED AT THE TIME ALSO  
WHY DONT YOU WANT TO REPORT ON THE EFFORTS CURRENTLY ONGOING AND WHY DONT YOU WANT



RE: Yesterday's meeting

Mon, Sep 30, 2002 8:52 AM

TO INVITE PARENTS?

77

**Minutes from the Committee selected by the Town of Ipswich to look into  
the Feoffees  
Wednesday, October 2, 2002, 7:30 p.m.**

All members except Barry Hopping were in attendance.

Robert B. started the meeting with a statement School Committee no one is checking or aware of what the school committee is doing behalf of the kids. He distributed the attached Proposed Agenda. Robert B pointed out that some problems existed with obtaining the cooperation and involvement of the school committee in our efforts and that no formal representative of the school committee has been present in too long. Further that this supports the notion of parents serving on the new Feoffee committee rather than overworked town committee members

Robert B. began the meeting by calling for a vote for a new Chair person. Bob W. began the process of electing a new chairman for our committee by nominating Harvey S. Motion made and seconded, all in favor.

The minutes from May 15 and September 18 were reviewed. Motion made to approve, seconded, all in favor.

Mary Harrington requested that Robert B. return the original valuation report that Don Greenough lent our committee. Robert B. stated that he gave the original to the AG's office, however, he has spoken to Don Greenough and believes that he was able to get another copy from the firm who prepared the report.

There was then a discussion how our committee would handle the press. It was agreed that any member could discuss their opinion of what was going on with the press, however, statements by the committee would only go thru Harvey S.

The discussion then proceeded to our goals for the next year. We agreed we need an action plan, a timetable, goal(s) and cooperation with the School Committee. Harvey S. will contact the Head of the School Committee, Margo Sherwood, and request to be on the agenda for us to discuss the future cooperation and request that Mr. Allen be there for that discussion. Robert B requested the group focus on making additional findings and questioned what has been done by the school committee since town meeting.

Motion to contact Margo with Barry H.'s involvement , seconded, all in favor.

One possible goad was brought up, a town meeting vote on a new structure at the April 2003 meeting. Robert B questioned the actual vote put before the town as to our function

We then started reviewing the points listed in the email from Robert W. dated September 19, 2002.

Point #1 - There should be 5 Feoffees, all residents of Ipswich. Robert B. stated he disagreed with 5 and wanted 8. There was a motion to allow 5 or 8 members, a majority was in favor of 5.

Robert B. requested that the minutes reflect that his reason for 8 was that it would allow room for 3 members which must come from the parent members of our community, preferably one from each school (elementary, middle and high school).

Point #1, part 2 and Point #5 - Removed. At one point it was discussed whether or not to allow the Little Neck tenants or the current Feoffees to be on the committee. Harvey S. said that since anyone can be on a town committee then any town resident should be allowed on the Feoffees. It was pointed out that they should refrain from voting on such matters as rent amounts since they are directly affected by the outcome.

Robert B. requested that the minutes reflect that he disagrees with allowing the current Feoffees to be on the new committee.

Point #2 - Feoffees should be appointed, not elected. All in favor.

Point #3 - Three year terms, no term limits, staggered start. All in favor.

Point #4 - The five members of the new Feoffees would be nominated by: one appointee by each of: Town Selectman, Finance Committee and the School Committee; the remaining two by the Town Moderator. A member of one of the above committees can only be nominated by another committee, not their own. Robert B's motion to have appointments by the moderator and the other 3 from the parent groups in town was voted down with all but Robert B voting No.

Robert B. wanted the minutes to show that even though it was voted by a majority vote that the the additional 3 members would represent the parent constituency as unique and concerned.

It was mentioned by other members of the committee that parents could become nominated for any of the 5 positions as it was agreed that parents have a valued contribution to make to a committee of this type.

The next meeting is tentatively scheduled for Wednesday, October 30, 7:30 pm.

Agenda will include continuing our discussion of the items in Robert W.'s email from September 19, 2002.

Meeting adjourned.

78

Minutes from the Committee selected by the Town of Ipswich to look into  
the Feoffees

Wednesday, October 30, 2002, 7:30 p.m.

All members except Robert Bonsignore, Mary Harrington and Harry Lampropoulos were in attendance.

Harvey Schwartz started the meeting by asking for a motion to approve the minutes, as amended by Robert Bonsignore, for October 2, 2002. Motion made, all in favor.

Harvey then said that after his discussion with the AG's office, they had found the original appraisal report given them by Robert Bonsignore and it has been returned to Don Greenough, attorney for the Feoffees. Don Greenough, however, is still looking for the appraisal done in 1997.

Barry Hopping then said that we are on the agenda for the School Committee meeting scheduled for Thursday, November 21, 2002. The meeting starts at 7:30 pm and we should expect to be up at approximately 7:50 pm. These meetings take place in the large meeting room near the auditorium. The School Committee's counsel, Dick Allen, will be in attendance. Barry also mentioned that the School Committee is considering whether or not they should get their own appraisal done on the Little Neck property, however, the estimates for this work is considerable.

Barry will take our most recent Item List as of 11/19 to distribute with the meeting preparation material.

It was discussed that our approach to this meeting will be to demonstrate where we are in the decision process and to listen to Dick Allen. Also, we hope to set up a working meeting with both our group and Dick Allen to complete our Item List.

The next meeting is scheduled to follow the portion of the School Committee meeting in which we will be involved on November 21, 2002 at approximately 8:30. It is encouraged that all members be in attendance at the start of the School Committee meeting on that date at 7:30 pm. It will take place in one of the smaller conference rooms nearby. The agenda will be based on the results of the discussion at the School Committee meeting.

Meeting adjourned.

79

From: "Harvey A. Schwartz" <harvey@TheEmploymentLawyers.com>  
Reply-To: <harvey@TheEmploymentLawyers.com>  
: "'Barry Hopping'" <bhopping@attbi.com>, "'Robert Weatherall'"  
<utrum@ipswich.org>, "'Robert Bonsignore'" <rbonsignore@aol.com>, "'Mary Harrington'"  
<mph@ronansegal.com>, "'Harry Lampropoulos'" <selectmanlamp@hotmail.com>, "'Harvey  
Schwartz'" <harvey@TheEmploymentLawyers.com>, "'Heather Ellerkamp'"  
<ellerkamph@mediaone.net>  
Date: Sun, Nov 17, 2002, 9:13 AM  
Subject: RE: Meeting

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I'm writing to discuss what I believe our agenda is for our meeting with the School Committee. I suggest that it is important that as many of us as possible attend this meeting. The points I intend to make include:

- \* our committee has been meeting regularly for a year-and-a-half studying the history and structure of the Feoffees.
- \* we have given many hours of consideration and discussion to the changes that we believe are necessary to bring the Feoffees into the 21st century and beyond
- \* first and foremost is the need to create and implement a new trust document that will establish the structure of the Feoffees from now forward
- \* while we have thoughts about whether the Little Neck property should be sold, we do not believe that decision is part of our charter from the town and we have no recommendation on that, but leave that decision to the School Committee
- \* I will get Barry a clean copy of our decisions about the new structure, but I don't think this meeting is the place to discuss the details. Our committee believes that the best way to accomplish a new trust document is to have a joint working session. I will suggest a joint meeting of our committee and either the entire School Committee or a subcommittee, with Dick Allen, to address and decide upon all the specifics. Dick Allen would then convert those decisions into a trust document. He can advise us as to the legal requirements to put that trust document into effect, whether it takes a School Committee vote, a town meeting vote, a court order or an act of the legislature.

I will suggest establishing a deadline of having the new trust document ready for the next town meeting.

Any suggestions or thoughts about this?

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email: harvey@TheEmploymentLawyers.com  
website: www.TheEmploymentLawyers.com

-----Original Message-----

From: Barry Hopping [mailto:bhopping@attbi.com]  
Sent: Saturday, November 16, 2002 1:52 PM  
To: Robert Weatherall; Robert Bonsignore; Mary Harrington; Harry Lampropoulos; Harvey Schwartz; Heather Ellerkamp  
Subject: Meeting

Dear Feoffees members,



Just wanted to confirm that the arrangements have been made for this Thursday night's School Committee/Feoffess Town Committee meeting at the middle school/high school. We are on the School Committee's agenda for approximately 7:50. Dick Allen, attorney for the SC who has been looking into the trust document as well as working closely with Don Greenough who represents the Feoffees, will not be in attendance. I have arranged for the Town Committee to meet shortly thereafter in the middle/high school guidance conference room at 8:30. The meeting has been posted with Fran Richards at Town Hall. I think that just about covers everything for now. Harvey, a reminder, I requested at our last meeting a "clean copy" of what we have agreed to regarding the trust so that it can be included in the School Committee packet that goes out on Tuesday.

I look forward to seeing everyone on Thursday night.

Barry

80

## **Recommendations of the Ipswich Committee on the Feoffees of the Grammar School concerning the new trust document**

Our committee has been meeting for a year-and-a-half studying the history and practices of the Feoffees. We presented a detailed report of our findings at the 2002 annual town meeting. That meeting voted to have us continue our work. We have reached the unanimous conclusion that it is time to create a new trust document that will establish and define the goals, roles and functioning of the Feoffees into the Twenty-First Century.

**First proposal** – The Committee on the Feoffees and the School Committee should hold a joint work session devoted to deciding the structure of the new trust document. At the conclusion of that session, Richard Allen should be instructed to draft the document and recommend what steps are required to put the document into effect.

**Second proposal** – The Committee on the Feoffees believes the following issues should be addressed in the new trust document. Further, after extensive study and discussion, our views on each item are as follows.

### **1. Who should the Feoffees be and how should they be chosen?**

**Recommendation:** There should be 5 Feoffees, all residents of Ipswich. The five members of the new Feoffees would be one citizen appointed by each of the Town Selectman, the Finance Committee and the School Committee, with the remaining two by the Town Moderator. A member of one of the above committees can only be nominated by another committee, not their own. The present Feoffees should be eligible for appointment to the new committee. So long as the Little Neck property is owned by the Feoffees, no resident of Little Neck should be a member because of potential conflicts of interest. They should be appointed for three-year, staggered terms, with no term limits.

### **2. What reporting requirements should the Feoffees comply with?**

**Recommendation:** The Feoffees should be required to observe the open meeting law, the public records laws and all laws and regulations applicable to town committees. The trust document should require the Feoffees to make a detailed financial report to each annual town meeting of their assets, income, expenses, and contributions.

### **3. What should the declared purpose of the trust be?**

**Recommendation:** The trust funds are to be used to broaden and enrich the education experience of children in the Ipswich public schools by providing grants and financial aid to the schools, teachers and students. The trust document should specifically state that trust funds are not intended to be used to relieve taxpayers of the expense of providing for the public schools and that the purpose of the trust is to provide supplemental programs, rather than to be a substitute source to finance the ordinary and regular expenses of the schools.

### **4. How should the trust document ensure that the trust funds are used to supplement students' education?**

**Recommendation:** All trust funds should be held by the Feoffees until they are distributed for the schools. On an annual basis, the school committee (or the

superintendent) should forward funding proposals to the Feoffees. The Feoffees should have complete discretion as to which proposals they choose to fund each year, although they should have the option to commit to multi-year funding of proposals. Thought should be given to the possibility of providing for direct grants from the Feoffees to students or teachers.

**5. How should the trust document ensure that the Feoffees contribute as much to the schools as would be expected from the size of their assets?**

**Recommendation:** The committee spent a fair amount of time discussing this without coming to a conclusion. We could not decide whether the document should simply ensure oversight of how they handle their operating expenses, which are likely to fluctuate and in some years, because of an emergency, may be very high, or whether the document should more narrowly require an annual contribution of a specific percentage of the value of the trust property.

**6. What steps are required to put the new trust into effect?**

**Recommendation:** Once the trust document is drafted, legal advice should be obtained as to how it should be implemented. The possibilities range from a vote of the school committee, a town meeting vote, special legislation and/or approval by the Probate Court. Consideration should be given to whether town meeting should vote on the proposal as a matter of public policy, even if it is not required as a matter of law, since the trust will be holding such substantial assets for public purposes.

**Final comments** – The committee strongly believes that this trust is a special gift for the schoolchildren of Ipswich that must be handled wisely. It is our strong recommendation that the trust funds be protected from simply becoming another funding source for the school's regular budget. Because of this trust, we see a future in which Ipswich students and teachers get the frosting, not just the cake, all without costing the taxpayers a penny, all by managing the gift given by William Payne in 1660 to the school children of Ipswich wisely, a gift that in the past has provided pittances but is just now beginning to reach for its full potential. Among the many other gifts that make Ipswich special is William Payne's gift. We urge the town to use this gift in a special way.

81

From: "Robert Weatherall" <utrum@ipswich.org>  
To: harvey@TheEmploymentLawyers.com  
te: Fri, Nov 22, 2002, 9:29 AM  
Subject: Meeting with the Feoffees

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Hi: Just a note on why I think the Feoffees would be responsive if we sought a meeting with them. Don Greenough sent me a friendly note after my presentation of our committee's findings at Town Meeting. In reply I sent him the text of my speech which Jim Grimes wouldn't let me finish. I was careful in my remarks not to knock the Feoffees more than I had to. I was able to say before Jim interrupted me that we were "ready to praise" the Feoffees for the way they have maintained Little Neck, and in stating our conclusions I said that we believed the Feoffees "should be elected or appointed like other town boards" but we were not saying "the present Feoffees should step down", rather "they should come up for reappointment or election like the members of other town boards."

Earlier, at a Selectman's meeting, Jim Foley asked me if he and I could get together to talk about the Feoffees and he came to my house and we talked for about an hour. I can't remember now what each of us said but there was no rancor.

I think it is in our favor that Jim is now chairman of the Selectmen. He has to keep the Town's interests in mind.

Don Greenough has always been very colleguely with me. I suspect he has been largely responsible for educating the Feoffees on their responsibilities. Don Whiston is likely to be the most prickly, because the Feoffees have been his baby for the last 15 years, but he has given signs that he is ready to retire. He may very well be thinking that the time has come for him to do so.

) If the Feoffees are willing to entertain our proposals I think the School Committee will be inclined to go along, relieved that they don't have to take a position. Bob

82

From: "Harvey A. Schwartz" <harvey@TheEmploymentLawyers.com>  
Reply-To: <harvey@TheEmploymentLawyers.com>  
To: "'Robert Weatherall'" <utrum@ipswich.org>, "'Harry Lampropoulos'" <electmanlamp@hotmail.com>, "'Harvey Schwartz'" <harvey@TheEmploymentLawyers.com>, "'Heather Ellerkamp'" <ellerkamp@mediaone.net>, "'Robert Bonsignore'" <rbonsignore@aol.com>, "'Mary Harrington'" <mph@ronansegal.com>, "'Barry Hopping'" <bhopping@attbi.com>  
Date: Fri, Nov 22, 2002, 9:01 AM  
Subject: FW: Feoffees

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I received this response from Don Greenough

Harvey A. Schwartz  
Rodgers, Powers & Schwartz LLP  
18 Tremont Street  
Boston MA 02108  
(617) 742-7010  
(617) 742-7225 - fax  
email: harvey@TheEmploymentLawyers.com  
website: www.TheEmploymentLawyers.com

-----Original Message-----

From: Don Greenough [mailto:donald.greenough@verizon.net]  
Sent: Friday, November 22, 2002 11:44 AM  
To: harvey@TheEmploymentLawyers.com  
Subject: Re: Feoffees

Harvey:

I appreciate the update and the presentation material. I continue to believe that the issues surrounding Little Neck and the Feoffees can be addressed most effectively with cooperation among all of the parties.

The Feoffees did not attend last night's meeting, but provided copies of the 2000, 2001 and 2002 financial statements to the Superintendent. I also passed along the FY2003 assessments for Little Neck.

I will call Don Whiston regarding your proposal for a meeting. I'm sure that the Feoffees will want to participate in the dialogue. They understand that it is time for a substantial updating of the arrangement. They fully support the concept of the funds being used to provide additional support to the schools outside of the municipal budget. They may not agree with the Feoffees making the decisions as to how the income will be used. They have different ideas regarding the composition of the Feoffees and do not feel that any significant changes should be made until the decision is reached by the School Committee on the sale of the property. Will the Feoffees be overseeing the professional management of a \$15 or \$20 million investment portfolio or managing real estate and debating such matters as whether a proposed addition to a porch will affect a neighbor's view?

In case the Superintendent didn't mention it last night, here are the new FY2003 assessments for Little Neck:

Buildings owned by cottage owners:	\$15,096,000
Land owned by Feoffees (167 leased lots plus other parcels)	
1,468,400	
Other improvements owned by Feoffees	\$104,500



On another matter, I am still waiting for the original 1997 appraisal to be turned from Robert Bonsignore. Your continued assistance is greatly appreciated.

----- Original Message -----

From: "Harvey A. Schwartz" <harvey@TheEmploymentLawyers.com>  
To: "'Don Greenough'" <dona1d.greenough@verizon.net>  
Cc: "'Robert Weatherall'" <utrum@ipswich.org>; "'Harry Lampropoulos'" <selectmanlamp@hotmail.com>; "'Harvey Schwartz'" <harvey@theemploymentlawyers.com>; "'Heather Ellerkamp'" <ellerkamph@mediaone.net>; "'Robert Bonsignore'" <rbonsignore@aol.com>; "'Mary Harrington'" <mph@ronansegal.com>; "'Barry Hopping'" <bhopping@attbi.com>  
Sent: Friday, November 22, 2002 10:26 AM  
Subject: Re: Feoffees

> Don -- I wanted to keep you posted on what has been happening with the  
> town's committee on the Feoffees. We met briefly last night with the  
school  
> committee. We told the school committee that our suggestion is that a new  
> trust document be created for the Feoffees. We suggested that our  
committee  
> and the school committee hold a joint work session of several hours to  
> discuss and decide on the criteria for this new trust document and that  
the  
attorney hired by the school committee then draw up the document and  
advise  
> us as to what steps are needed to implement it. My committee believes  
that  
> that the present Feoffees should be involved in this process, if they  
choose  
> to participate. We would welcome a meeting with you and the present  
Feoffees  
> at our mutual convenience to discuss the concept of creating a new trust  
> document and to discuss their views on what that document should include.  
We  
> usually at 7:30 in the evening. I realize December tends to be a busy  
month  
> but would December 18 or 19 be convenient? If not, we could look for a  
date  
> in early January. For your information I have attached a document we  
> submitted to the school committee. I look forward to hearing from you.  
>  
>

83

From: "Robert Weatherall" <utrum@ipswich.org>  
To: harvey@TheEmploymentLawyers.com  
Date: Sun, Dec 8, 2002, 5:41 PM  
Subject: Conversation with Greenough

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Harvey: I bumped into Don Greenough this afternoon at the North Shore Youth Symphony concert at the high school. I naturally asked about the Feoffees and told him that we were very eager to meet with them, not least because the School Committee are taking their time to meet with us, just as they have taken their time with regard to the tenants' offer. I said we were looking forward to a friendly, dispassionate discussion with the Feoffees. He said that the timing was good, because Don Whiston is talking seriously of retiring, Peter Foote may be moving to Maine, and Alex Mulholland may also be stepping down. We would not therefore be treading on their feet.

He also brought up again the idea that it was one thing to manage the property at Little Neck, it would be another thing managing liquid assets. I did not say so him, but I don't see why it should require a differently-structured board. Certainly, I don't think it means we should wait till we know whether the tenants will buy the Feoffees out. Bob

84

From: "Robert Weatherall" <utrum@ipswich.org>  
To: harvey@TheEmploymentLawyers.com  
Date: Sat, Dec 14, 2002, 9:21 AM  
Subject: Chat with Don Whiston

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Dear Harvey: Don Whiston greeted me yesterday outside Demoula's - we were both pushing shopping carts towards our cars. I told him what I had told Greenough, that we were eager to meet with the Feoffees, and he said they had discussed the matter at a meeting earlier this week. They made no firm decision because Foote was in Florida, but he indicated that they were ready to share their views on a new trust structure. They didn't have a copy of the proposal you gave the School Committee (at least I don't think so), but it appears they took what I said at Town Meeting about the need for a new trust structure as an indication of what we had in mind. Whiston specifically referred to it. It also appears they had no objection to it, except that (in Whiston's view at least) seven members would make for a better board than five. He thinks a five-member board can be more easily be swayed by a clique. This isn't an objection that need stand in our way.

Don went on to say that rather than a meeting of all of us, he thought we should have a subcommittee meet with Don Greenough and work out a common position. He didn't say so but I think he is wary of the sort of argumentative meeting we had with the Feoffees in October, 2001. I see his point: we should avoid if we can a meeting where people can use the occasion to lecture the Feoffees on their past misdoings. I think it would work if the meeting were just between Greenough and yourself. Then, with luck, our committee and the Feoffees could each sign off on what you agreed. I don't think we are that far apart.

Whiston confirmed that he is eager to step down. He said that managing Little Neck has become an enormous burden - all the more as rising rents have set the tenants on edge - and that he has borne most of it. Even his fellow Feoffees don't appreciate the amount of work involved. He seems eager to see Little Neck sold - if not to the tenants, then to another buyer willing to pay the price. He talked of the proceeds of \$15 million (as if this might be selling price) being put in the hands of three money management firms under the direction of the trustees. He was an investment man himself and he thinks it's good to have money management firms compete for the work they are given. This latter point needn't concern us, but we might be looked to for an opinion if there's a prospect of an outside taking over Little Neck. He expressed frustration that the School Committee have made no response, yes or no, to the tenants' offer.

Whiston said the Feoffees will be holding their annual meeting in January. Bob

85

**From:** Harvey A. Schwartz <harvey@TheEmploymentLawyers.com>  
**Reply-To:** <harvey@TheEmploymentLawyers.com>  
**To:** "Robert K. Weatherall" <utrum@ipswich.org>  
**Date:** Monday, April 7, 2003 8:15 AM  
**Subject:** RE: Meeting

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I'll send out an email to everybody notifying them of an April 16 meeting. Barry said he will arrange a date for a meeting with the school committee toward the end of April, after the new members join. Here is what we submitted to the school committee:

Recommendations of the Ipswich Committee on the Feoffees of the Grammar School concerning the new trust document

Our committee has been meeting for a year-and-a-half studying the history and practices of the Feoffees. We presented a detailed report of our findings at the 2002 annual town meeting. That meeting voted to have us continue our work. We have reached the unanimous conclusion that it is time to create a new trust document that will establish and define the goals, roles and functioning of the Feoffees into the Twenty-First Century.

First proposal - The Committee on the Feoffees and the School Committee should hold a joint work session devoted to deciding the structure of the new trust document. At the conclusion of that session, Richard Allen should be instructed to draft the document and recommend what steps are required to get the document into effect.

Second proposal - The Committee on the Feoffees believes the following issues should be addressed in the new trust document. Further, after extensive study and discussion, our views on each item are as follows.

1. Who should the Feoffees be and how should they be chosen? Recommendation: There should be 5 Feoffees, all residents of Ipswich. The five members of the new Feoffees would be one citizen appointed by each of the Town Selectman, the Finance Committee and the School Committee, with the remaining two by the Town Moderator. A member of one of the above committees can only be nominated by another committee, not their own. The present Feoffees should be eligible for appointment to the new committee. So long as the Little Neck property is owned by the Feoffees, no resident of Little Neck should be a member because of potential conflicts of interest. They should be appointed for three-year, staggered terms, with no term limits.

2. What reporting requirements should the Feoffees comply with? Recommendation: The Feoffees should be required to observe the open meeting law, the public records laws and all laws and regulations applicable to town committees. The trust document should require the Feoffees to make a detailed financial report to each annual town meeting of their assets, income, expenses, and contributions.

3. What should the declared purpose of the trust be? Recommendation: The trust funds are to be used to broaden and enrich the education experience of children in the Ipswich public schools by providing grants and financial aid to the schools, teachers and students. The trust document should specifically state that trust funds are not intended to be used to relieve taxpayers of the expense of providing for the public schools and that the purpose of the trust is to provide supplemental programs, rather than to be a substitute source to finance the ordinary and regular

expenses of the schools.

4) How should the trust document ensure that the trust funds are used to supplement students' education?

Recommendation: All trust funds should be held by the Feoffees until they are distributed for the schools. On an annual basis, the school committee (or the superintendent) should forward funding proposals to the Feoffees. The Feoffees should have complete discretion as to which proposals they choose to fund each year, although they should have the option to commit to multi-year funding of proposals. Thought should be given to the possibility of providing for direct grants from the Feoffees to students or teachers.

5) How should the trust document ensure that the Feoffees contribute as much to the schools as would be expected from the size of their assets?

Recommendation: The committee spent a fair amount of time discussing this without coming to a conclusion. We could not decide whether the document should simply ensure oversight of how they handle their operating expenses, which are likely to fluctuate and in some years, because of an emergency, may be very high, or whether the document should more narrowly require an annual contribution of a specific percentage of the value of the trust property.

6) What steps are required to put the new trust into effect?

Recommendation: Once the trust document is drafted, legal advice should be obtained as to how it should be implemented. The possibilities range from a vote of the school committee, a town meeting vote, special legislation and/or approval by the Probate Court. Consideration should be given to whether town meeting should vote on the proposal as a matter of public policy, even if it is not required as a matter of law, since the trust will be holding such substantial assets for public purposes.

Final comments - The committee strongly believes that this trust is a special gift for the schoolchildren of Ipswich that must be handled wisely.

It is our strong recommendation that the trust funds be protected from simply becoming another funding source for the school's regular budget.

Because of this trust, we see a future in which Ipswich students and teachers get the frosting, not just the cake, all without costing the taxpayers a penny, all by managing the gift given by William Payne in 1660 to the school children of Ipswich wisely, a gift that in the past has provided pittances but is just now beginning to reach for its full potential. Among the many other gifts that make Ipswich special is William Payne's gift. We urge the town to use this gift in a special way.