

Minutes

TRUSTEES OF TRUST FUNDS MEETING

Town of Orford

Town Offices, Niles Room

6:00 PM, Tuesday, August 6, 2024

Attending: C. Crowley, S. Carter, V. Schwaegler (Elected Trustees),
B. Harwood (Alternate Trustee)
D. Smith (Cemetery Commission)

Meeting Called to Order at 6:00 by C. Crowley.

1. Motion: To approve the minutes of the TTF Meeting December 5, 2023.

Motioned by C. Crowley, Seconded by B. Harwood.

No discussion.

Motion Passed unanimously.

2. Chris Crowley spoke to the attendees about the management of the Cemetery Perpetual Care Trust Funds. He spoke relative to notes found in the Attachment to these minutes. The information and discussion were intended to inform the Trustees about changes that need to be made in the way the bookkeeping of expenditures is handled for these Trusts. This was in preparation for an expected meeting with the Cemetery Commission.

Earlier this year, while preparing the MS-9 report for the State of NH, Chris Crowley discovered that -- since expenditures for 2023 exceeded the annual income significantly -- it created a situation where the newest Perpetual Care Trusts had insufficient Income Balances to cover their allocated share of the expenditure. This situation was unique in the one-hundred-year history of the Cemetery Perpetual Care Trusts. Prior to this, the expenditures from the Cemetery Perpetual Care Trusts had always been approximately equal to or less than the annual income, and so this situation never arose.

During further investigation on the NH Department of Justice website for Municipalities, to determine what to do in that situation, it was discovered further that for the special case of Cemetery Perpetual Care Trusts, there were NH Court rulings that applied special constraints specifically to these Cemetery Perpetual Care Trusts. Namely, to treat expenditures as specific to gravesites within each separate Trust. That is, each Trust must be treated as a separate account and expenditures charged directly to that Trust. That might be a direct expenditure (such as repairing a headstone), or a share of an expenditure that can be apportioned among gravesites (such as a headstone cleaning project).

For the past 40 years (at least), the TTF bookkeeping methodology has been to allocate expenditures to individual Trusts by taking the total expenditures and apportioning them in proportion to the Principal Balances for each Trust. That methodology has been incorrect in view of the constraints in the NH DOJ information described above. That incorrect approach also allocates a greater share of the cost to older gravesites than newer gravesites. The accounting for expenditures from the Cemetery Perpetual Care Trusts therefore needs to be changed.

The above information was provided as background information for discussion of questions raised by the Cemetery Commission.

The first question raised by the Cemetery Commission was where the Income was being held for the Cemetery Perpetual Care Trusts. The meeting reviewed that the annual Income from the Trusts was about \$5,000, and that the current accumulated Income Balance for all the Trusts was about \$60,000 through June 2024. Most of the accumulated Income was accrued over the past 20 years (2003 through 2022). During that time the annual Income was about \$4,000, while expenditures were about \$2,000 per year, which added more than \$40,000 to the total Income Balance. That Income is held in a Savings Account (\$12K), a CD that matures at the end of August (\$32K) and shares of three Mutual Funds at Fidelity Investments (\$18K).

A second question raised by the Cemetery Commission was how the Trust Income could be spent. It was discussed that to make any expenditure, it is necessary to calculate how the expenditure would affect the Income Balance of each and every one of the 448 Trusts individually (per the introductory information above). Apportioning the total expenditure by Principal Balance – as done in the past -- is not allowable for Cemetery Perpetual Care Trusts. For example, the \$60,000 of accumulated Income cannot be viewed as a lump sum that can be spent on all possible work related to the cemeteries. The constraints described by the NH Probate Court rulings limit expenditures to specific gravesites and also preclude expenditures for general maintenance and improvement of cemetery properties. This interpretation is different than one might infer from reading only NH RSA §289:9 “Use of Trust Funds” by Cemetery Trustees.

It was reviewed that a large difference exists between older Trusts (pre-1960) and newer Trusts (circa 2000) with respect to both Principal and Income Balances. Specifically, the older Trusts (on average) hold about 40% of the total Principal Balance, while newer Trusts hold only about 13%. This means that annual additions to Principal (Capital Gains) and Income (Interest and Dividends) are distributed very preferentially (about four times greater) to the older Trusts, because they are allocated in proportion to the Principal Balance. As a consequence, the older Trusts (on average) presently hold about 50% (\$28,000) of the total Income Balance, while the newer Trusts hold only about 5% (\$3,000). The reason for these large inequalities in Principal and Income Balances is: the Principal Balances of older Trusts grew due to addition of Capital Gains over many decades, while the Principal Balances of newer Trusts were only the price paid for gravesites. (The price paid for the gravesites basically did not increase over 100 years.)

It was discussed that the very large difference in Income Balances between the older and newer Trusts makes it much more likely that newer Trusts have an Income Balance insufficient to cover an expenditure that is shared equally by gravesite. The consequences are that attempts to tap the \$60,000 of accrued Income could result in 1.) many of the newer Trusts seeing their Income Balance go to zero, and 2.) the Town of Orford would be responsible to cover the portion of an expenditure for a gravesite that the Trust is unable to cover. This situation could also arise in the case of a direct expenditure, such as resetting or repairing a headstone for a specific grave. The Town currently has no account identified to cover such an expense.

Therefore, the answer to the question about what can be spent is: it very much depends upon what share of the expenditure is allocated to each gravesite and what the Income Balance is for the Trust for that gravesite. Calculations need to be done for each proposed expenditure examining the impact for every Trust individually to determine what portion each Trust can

afford to expend, and to identify situations where the Town of Orford may need to cover a portion of the expenditure.

If expenditures are limited to the annual Income, then this situation is less likely to arise.

If expenditures tap into the accumulated Income Balance, *i.e.* expenditures exceed the annual Income significantly, then it is very possible that the Town may become responsible for a significant portion of the expenditure. The Town needs to be brought into the loop if that situation arises, because taxpayer money may be required.

David Smith pointed out that many headstones are in need of repair. This led to the discussion that directing such repairs to the oldest Trusts first would be less likely to “bankrupt” individual Trusts and incur a cost to the Town. That is because the older Trusts hold more Income.

The third question asked by the Cemetery Commission was what work could be covered by the Cemetery Perpetual Care Trusts. In light of the information provided in the introduction to this discussion, the answer is that any expenditure that can be allocated directly to the care of a specific gravesite can be (potentially) covered by the Trust Income. That could include resetting, repairing or cleaning headstones. It might include a share of groundskeeping costs. Per the NH Probate court rulings, general maintenance and improvement of the Town’s cemetery properties cannot be paid for by Trust Income. The Town is responsible for those costs. Therefore, work such as repairing fences or tree care cannot be covered by the Trust Income, because it does not affect/improve a specific Perpetual Care gravesite.

The discussion then turned to what changes might be needed to the TTF bookkeeping methods to comply with the requirement that the Cemetery Perpetual Care Trusts be treated as individual accounts with respect to expenditures. C. Crowley reviewed a list of potential questions that arise. These are also listed in the attached notes. He suggested that professional advice will be needed to ensure that things are done properly. He reported that the Selectboard has given permission to the TTF to seek advice from the Town Auditor. C. Crowley will contact the Town Auditor to seek that advice.

C. Crowley mentioned that it may be necessary for the Cemetery Commission to provide the TTF with data regarding the Cemetery Perpetual Care Trusts. That data would include the number of graves, number of headstones, and gravesite location (which cemetery) for each Trust. This information may be needed to allocate expenditures such as cleaning headstones at one of the three cemetery properties, for example.

It was also discussed that a radical option for the future might be for the Town of Orford to consider petitioning the NH Probate Court to merge the Cemetery Perpetual Care Trusts into a single Cemetery Trust. The opinion of the Town Auditor will be sought regarding that possibility.

3. Motion: To approve a Niles Fund Committee request to expend up to \$7,500 in support of bandstand repair project to be performed under an anticipated Bandstand Donor Trust to be created by the Town of Orford and to authorize the redemption of \$7,500 in shares of the T. Rowe Price Mutual Fund to be transferred to the Savings Account to cover Fund expenditures.

Motioned by C. Crowley, Seconded by B. Harwood.

In discussion, C. Crowley described the request submitted by the Niles Fund Committee. He pointed out that the request fell within the Purpose and available Income of the Niles Fund (about \$10,000). Expending the proposed amount would be affordable, though it would leave the Niles Fund with little Income to spend on other projects for the foreseeable future: a Balance of about \$2,500 remaining, with prospective Income about \$2,000 annually.

The discussion turned to the process by which the expenditure might be made. C. Crowley suggested that the best approach would be to wait until a bid for the bandstand repair work was accepted and then allocate a portion of the expenditure to the Bandstand Trusts and a portion to the Niles Fund (if necessary). There is precedent in Orford to apportion expenditures between Trusts. He pointed out that an alternative approach such as transferring funds directly from one Trust to another was likely to raise many questions, and he recommended avoiding that approach.

C. Crowley then further reviewed details of the financial status of the Niles Fund. The funds of the Trust are held in two accounts: a Savings Account and as shares of a T. Rowe Price Mutual Fund. He reported that the Mutual Fund had a Principal Balance of \$160,868 and an Income Balance of \$19,588. The Savings Account had a Principal Balance of \$20,206, but the spending from that account over a number of years had left the Income Balance at (negative) \$9,061. That is: the Niles Fund had borrowed against the Principal Balance in the Savings Account without transferring Income from the Mutual Fund (by selling shares) to compensate. He pointed out that if an additional \$7,500 of Income were spent, it would drive the negative Income Balance in the Savings Account even greater. That was the basis for recommending in the Motion to sell \$7,500 of shares of the T. Rowe Price Mutual Fund. After further discussion, B. Harwood recommended an amendment to the motion to increase the amount of the shares to be redeemed at this time to \$10,000. The discussion considered the possibility that additional shares might be sold once the possible expenditure for the bandstand repair project became imminent.

Amended Motion: To approve a Niles Fund Committee request to expend up to \$7,500 in support of bandstand repair project to be performed under an anticipated Bandstand Donor Trust to be created by the Town of Orford and to authorize the redemption of \$10,000 in shares of the T. Rowe Price Mutual Fund to be transferred to the Savings Account to cover Fund expenditures.

Motioned by B. Harwood, Seconded by C. Crowley
Amended Motion Passed unanimously.

4. Motion: To adjourn the meeting at 8:01 pm.

Motioned by C. Crowley, Seconded by B. Harwood.
Motion Passed unanimously.

SUMMARY OF USE OF CEMETERY PERPETUAL CARE TRUST INCOME

The Orford cemetery Trusts are “Cemetery Perpetual Care” Trusts, since the first trusts in 1903 through the 448 Trusts at EOY 2023.

Therefore, the CEMETERY COMMISSION is constrained to commit to expenditures:

- Only of Income from these Perpetual Care Trusts, *never Principal*. [NH RSA §289:9]
- Only when expenditures can be allocated to the care of individual gravesites (*i.e.* individual Trusts), *never for general cemetery maintenance and improvements*. [NH Probate Court Ruling, 1945]¹

The TOWN OF ORFORD is responsible [NH RSA §289:4] for:

- Expenditures for general cemetery maintenance and improvements.
- Any shortfall arising when/if an individual Cemetery Perpetual Care Trust has insufficient Income to cover the share of an expenditure allocated to it.

The TRUSTEES OF THE TRUST FUNDS are responsible for releasing funds from the Cemetery Perpetual Care Trusts only for expenditures that comply with the constraints.

Reference: “Municipal Trustees: Summary of Laws and FAQs”, Diane Quinlan Murphy, Director of Charitable Trusts, *et. al.*, December 1, 2023:

Cemetery Perpetual Care Funds:** Perpetual care funds are considered to be privately donated charitable trusts. They are permanent funds, and **only the income from the funds may be spent.** (Income in this context is defined as dividends and interest; principal appreciation or capital gains may not be expended.) **The income from the perpetual care funds may be used only for the care and maintenance of the grave to which the perpetual care fund is attached.** See *Town of Boscawen v. Acting Attorney General*, 93 N.H. 444 (1945) (the income from perpetual care funds cannot be expended by the town for general cemetery maintenance without permission from the court). To address this, cemetery trustees may conduct an informal labor study to determine the annual maintenance cost for each lot in a cemetery, and that allocated amount may be spent from the income of a perpetual care fund pertaining to a lot in that cemetery. **Note that towns are required to appropriate “sufficient funds” for the maintenance of their cemeteries, which would include burial lots, to the extent they are not otherwise supported by perpetual care funds. RSA 289:4.

¹ Unless or until Orford receives permission from NH Probate Court to expend Trust Income for general care.

Cemetery Commission Questions for Perpetual Care Trusts

How much Income do the Cemetery Perpetual Care Trusts Have?

- About \$5,000 of new Income per year (For 2024: Minimum \$3,000. Actual TBD)
- About \$60,000 of accrued Income (\$40K accrued between 2003 and 2022, see Fig. 1)

At BOY 2024

By Account (Table 1)

By Trust (Table 2 or Fig. 2)

Savings	\$12K		110 Trusts	1903-1960	\$28K
CD	\$30K		110 Trusts	1960-1978	\$17K
Mutual Funds	\$18K		110 Trusts	1978-1998	\$12K
Total	\$60K		110 Trusts	1998-2023	\$3K
				Total	\$60K

On what can Income of Cemetery Perpetual Care Trusts be spent (or not)?

Per NH Probate court ruling regarding Cemetery Perpetual Care Trusts:

YES: Work that can be invoiced to a specific gravesite.

Work with a single invoice that can be itemized to a specific gravesite.

[Examples: reset headstone, repair headstone]

Work with a single invoice where cost can be shared to a group of specific gravesites.

[Examples: headstone cleaning project, groundskeeping care]

NO: General maintenance and improvement of Town Cemetery properties

[Examples: fences, roads/paths, tree care, mapping, ??]

A guiding question for YES/NO: Will the work change the appearance of a specific gravesite or not?

How can the Income of Cemetery Perpetual Care Trusts be spent?

The answer to the question requires detailed calculations for each proposed expenditure.

For each individual Cemetery Perpetual Care Trust (*i.e.* the lots/gravesites therein) calculate:

Net Balance: (Income Balance) less (Expenditure)

Case 1: IF Net Balance is positive (sufficient Income Balance to pay Expenditure)

THEN Cemetery Perpetual Care Trust pays Expenditure.

[Note: oldest Trusts are more likely to be in this situation]

Case 2: IF Net Balance is negative (NOT sufficient Income Balance to pay Expenditure)

THEN Cemetery Perpetual Care Trust pays Income Balance (“goes bankrupt”) &

THEN Town of Orford pays Net Balance

[Note: newest Trusts are very likely to be in this situation]

Results from calculations for each of the individual Cemetery Perpetual Care Trusts (currently 448) need to be summed to get the total that the Cemetery Perpetual Care Trust will pay, or that the Town of Orford will pay. [Note: Town of Orford does not have an account currently designated to pay its possible cost share.]²

² The approach used to allocate expenditures for the past 70 years or so has been incorrect: allocating shares of the total expenditure to each Trust in proportion to the Principal Balance (approximately) rather than per gravesite.

Table 1. Financial Report of Cemetery Perpetual Care Trust Income						
Year	2023					
		Savings	CD	Vanguard Mutual Fund	Fidelity Mutual Funds	Total
INCOME	Balance BOY 2023	16,432	34,710	0	13,393	64,535
	Interest	10	2,693			2,704
	Dividends			2,236	4,220	6,457
	(Cash) Transfer (Div.)	2,236		(2,236)		0
	Expenditures	(13,900)				(13,900)
INCOME	Balance EOY 2023	4,779	37,403	0	17,613	59,795
		Any Time	Jan-24 & Jul-24	No \$	Not Now	← Spendable???
						← Accessibility
Year	2024 Through June					
		Savings	CD	Vanguard Mutual Fund	Fidelity Mutual Funds	Total
INCOME	Balance BOY 2024	4,779	37,403	0	17,613	59,795
	Interest	5	1,701			1,706
	Dividends			0	392	392
	(Cash) Transfer Div.	0		0	0	0
	(Cash) Transfer CD (1/2024)	7,500	(7,500)			
	Expenditures					0
INCOME	Balance (June 2024)	12,284	31,604	0	18,005	61,893
		Any Time	Aug. 2024	No \$	Not Now	← Spendable???
						← Accessibility

Figure 1. Recent History of CPC Trust Income Balance

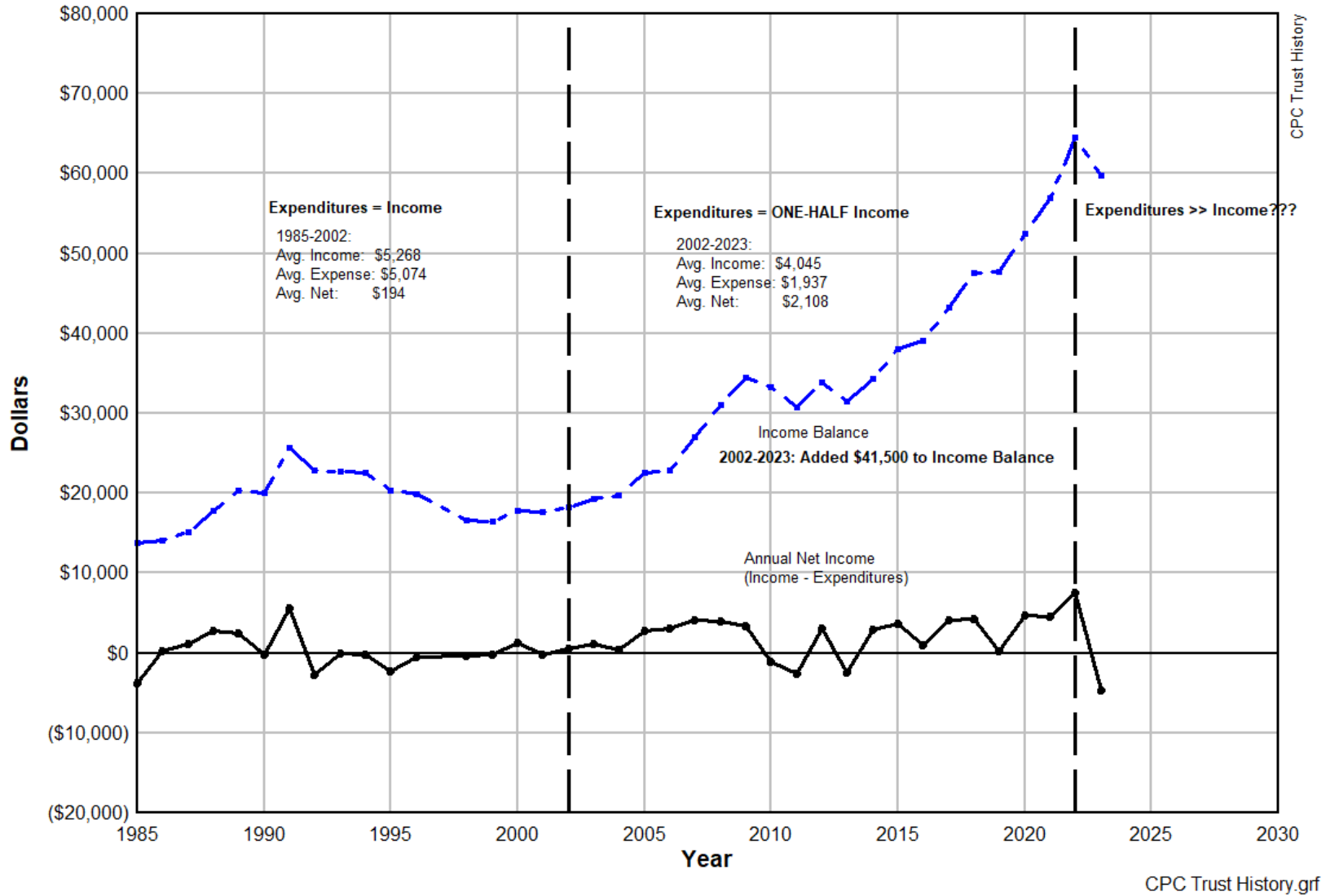


Table 2. CPC Trust Principal and Income Balances are Highly Unequal Per Plot

Cemetery Perpetual Care Trust Balances EOY 2023					
	ID	Trust Fund Name	Date	Principal Balance	Income Balance
1	cCOM-036	IDA A. SMITH	01/01/1934	34651.19	6915.98
2	cCOM-072	A. MANN BEN. OFD WEST CEM.	01/01/1948	7393.37	1374.93
3	cCOM-105	VIRGIL PRETTYMAN	01/01/1958	4615.12	1026.39
4	cCOM-139	CEMETERY IMPROVEMENT FUND	01/01/1966	2918	653.18
5	cCOM-039	THOMAS MASON	01/01/1937	3521.88	628.37
6	cCOM-103	ORFORD CEMETERY ASSN.	01/01/1957	3521.88	628.37
7	cCOM-056	HOWARD DIMMICK PIERCE	01/01/1943	3169.6	565.48
8	cCOM-055	PIERCE-WARREN	01/01/1943	2817.36	502.66
9	cCOM-099	MOREY & WILCOX	01/01/1956	2241.8	467.1
10	cCOM-089	HAZEN-CARR	01/01/1953	2694.48	431.76
11	cCOM-063	LEWIS W. COBURN	01/01/1945	2321.26	377.38
12	cCOM-273	JOHN C. TALLMAN	8/22/1988	3214.79	377.01
...	...				
92	cCOM-197	Doris M. Alger	01/01/1974	833.61	151.28
93	cCOM-199	George Finney	01/01/1974	833.61	151.28
94	cCOM-200	Mousley Brothers	01/01/1974	833.61	151.28
95	cCOM-096	HENRY E. MORRISON	01/01/1954	740.42	150.92
96	cCOM-045	AMY & ESTELLE CONVERSE	01/01/1938	845.19	150.81
97	cCOM-032	JOHN B. SARGENT	01/01/1930	739.9	150.61
98	cCOM-095	BURTON L. CLARK	01/01/1954	739.9	150.61
99	cCOM-030	BENJAMIN TRUSSELL	01/01/1930	739.54	150.32
100	cCOM-098	GEORGE H. BAKER	01/01/1955	739.54	150.32
101	cCOM-097	BESSIE B. DAYTON 1955	01/01/1955	738.42	149.55
102	cCOM-206	Wayne E. & Martha E. Miller	01/01/1975	828.7	147.86
103	cCOM-207	Weymouth H & Hellen M. Pike	01/01/1975	828.7	147.86
104	cCOM-209	Gilbert LaMontagne	01/01/1976	828.7	147.86
105	cCOM-210	Albert Charles Ladue	01/01/1976	828.7	147.86
106	cCOM-211	Earl M. Roberts&Anthony Hall	01/01/1976	828.7	147.86
107	cCOM-212	Roy B. Godfrey	01/01/1976	828.7	147.86
108	cCOM-213	Ralph E. Marsh	01/01/1977	828.7	147.86
109	cCOM-215	W. A. Mousley	01/01/1977	828.7	147.86
110	cCOM-216	Ernest Canfield	01/01/1977	828.7	147.86
111	cCOM-221	Ruth Prescott	01/01/1978	828.7	147.86
112	cCOM-222	Ernest&Evelyn Corpieri	01/01/1978	828.7	147.86
113	cCOM-224	Marian Hook	01/01/1979	828.7	147.86
114	cCOM-225	Kenneth Locke	01/01/1979	828.7	147.86
115	cCOM-226	Clarence Willis	01/01/1979	828.7	147.86
116	cCOM-228	Laura Van Buskirk	01/01/1980	828.7	147.86
...	...				
409	cCOM-374	PRESCOTT, RUTH	12/28/2007	208.57	18.69
410	cCOM-417	ESTES, Rodney & Tamara	12/7/2016	324.13	16.78
411	cCOM-375	WEEKS, Ramona Nutter	5/28/2008	198.4	15.38
412	cCOM-377	CLARK, William & Martha	7/14/2008	198.4	15.38
413	cCOM-379	PUSHEE, Frank	7/28/2008	198.4	15.38
414	cCOM-421	GEORGE, Roxanne Sanborne	7/20/2018	423.7	14.71
415	cCOM-419	LEIBROCK, Judith	10/17/2017	308.05	13.96
416	cCOM-428	SCHWAEGLER, Bruce, Family	10/24/2019	457.68	13.22
417	cCOM-382	QUACKENBUSH, William & Bob	6/12/2009	195.94	13.14
418	cCOM-398	TALLMAN, John & Verna, Gloria	8/4/2013	190.85	12.83
419	cCOM-409	GENDRON, Kenneth R.	12/1/2014	181.29	12.09
420	cCOM-426	PEASE, Francis	9/20/2019	343.28	9.91
421	cCOM-413	TAYLOR, Elmer sr.	6/29/2015	169.88	9.85
422	cCOM-420	SOUZA, Donna	7/26/2018	282.47	9.8
423	cCOM-422	BEAN, Fay + MARTIN, Arletta L.	8/25/2018	282.47	9.8
424	cCOM-416	BOARDMAN, Norman Sr., Arthur &	10/11/2016	162.04	8.39
425	cCOM-423	FINNEY, Corrine & Ralph	8/14/2018	228.83	6.61
426	cCOM-424	TAYLOR, Ranald & Mary	8/6/2019	228.83	6.61
427	cCOM-432	SANBORN, Kathy	9/19/2020	269.95	6.27
428	cCOM-433	EMERSON, Amy L. & Melvin P	5/9/2021	393.82	4.39
429	cCOM-429	DYKE, Tim & Nancy	6/25/2020	179.96	4.17
430	cCOM-430	ROSS, William Jr. & Dorisann	9/1/2020	179.96	4.17
431	cCOM-431	DYKE, Daniel & Kara	9/1/2020	179.96	4.17
432	cCOM-425	DURHAM, Martha & Roland	8/30/2019	114.43	3.31
433	cCOM-427	ELLIOT-FISHER, Linda A.	9/20/2019	114.43	3.31
434	cCOM-434	LISTER, Jennifer & Jeffrey	9/15/2021	196.91	2.2
435	cCOM-435	PATTERSON	5/5/2022	433.42	0
436	cCOM-436	OSMER, Harry	5/8/2022	216.71	0
437	cCOM-437	O'BRIEN, John & Deborah	5/13/2022	216.71	0
438	cCOM-438	WOODWARD, Wendell & Linda	5/27/2022	433.42	0
439	cCOM-439	FLEMING, Michael & Nancy	6/13/2022	216.71	0
440	cCOM-440	BALL, Albert & Jeanette	7/9/2022	216.71	0
441	cCOM-441	SMITH, Charles E., Sr.	7/10/2022	433.42	0
442	cCOM-442	DESIMONE, David & Vanessa	7/10/2022	216.71	0
443	cCOM-443	HEBB Family	8/21/2022	758.48	0
444	cCOM-444	CROUCH, Wayne & Joyce	10/11/2022	216.71	0
445	cCOM-445	ECK, Theodore & WILSON, Heidi	10/14/2022	325.07	0
446	cCOM-446	MCGOFF, Deborah & Jim	12/31/2022	102.41	0
447	cCOM-447	THOMSON, Robb	4/23/2023	614.45	0
448	cCOM-448	MCKINNON, Frank & Kathleen	11/17/2023	153.61	0
		Total		380,186.27	59,795.30

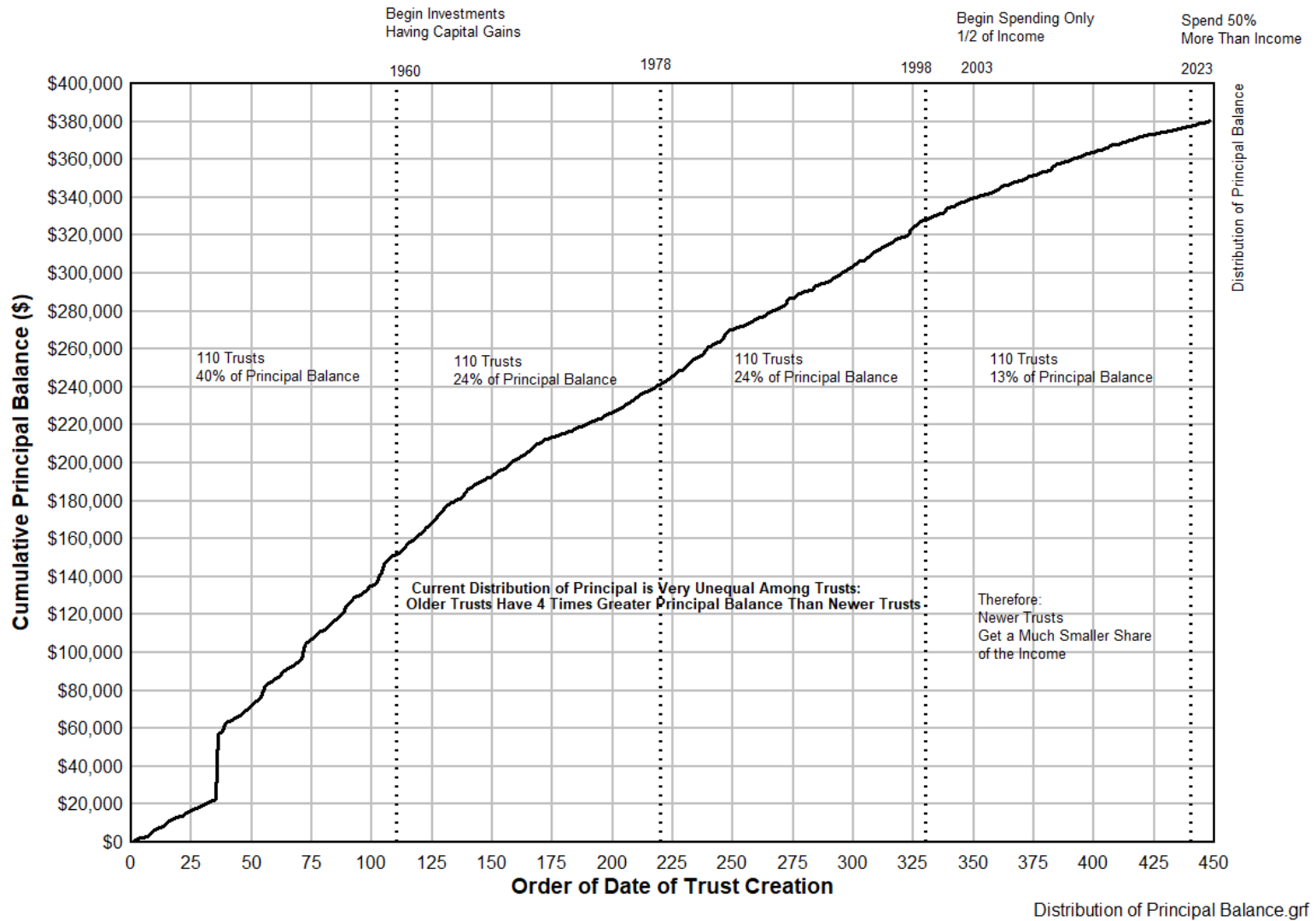


Figure 2. Current Distribution of Principal is Very Unequal Among Trusts

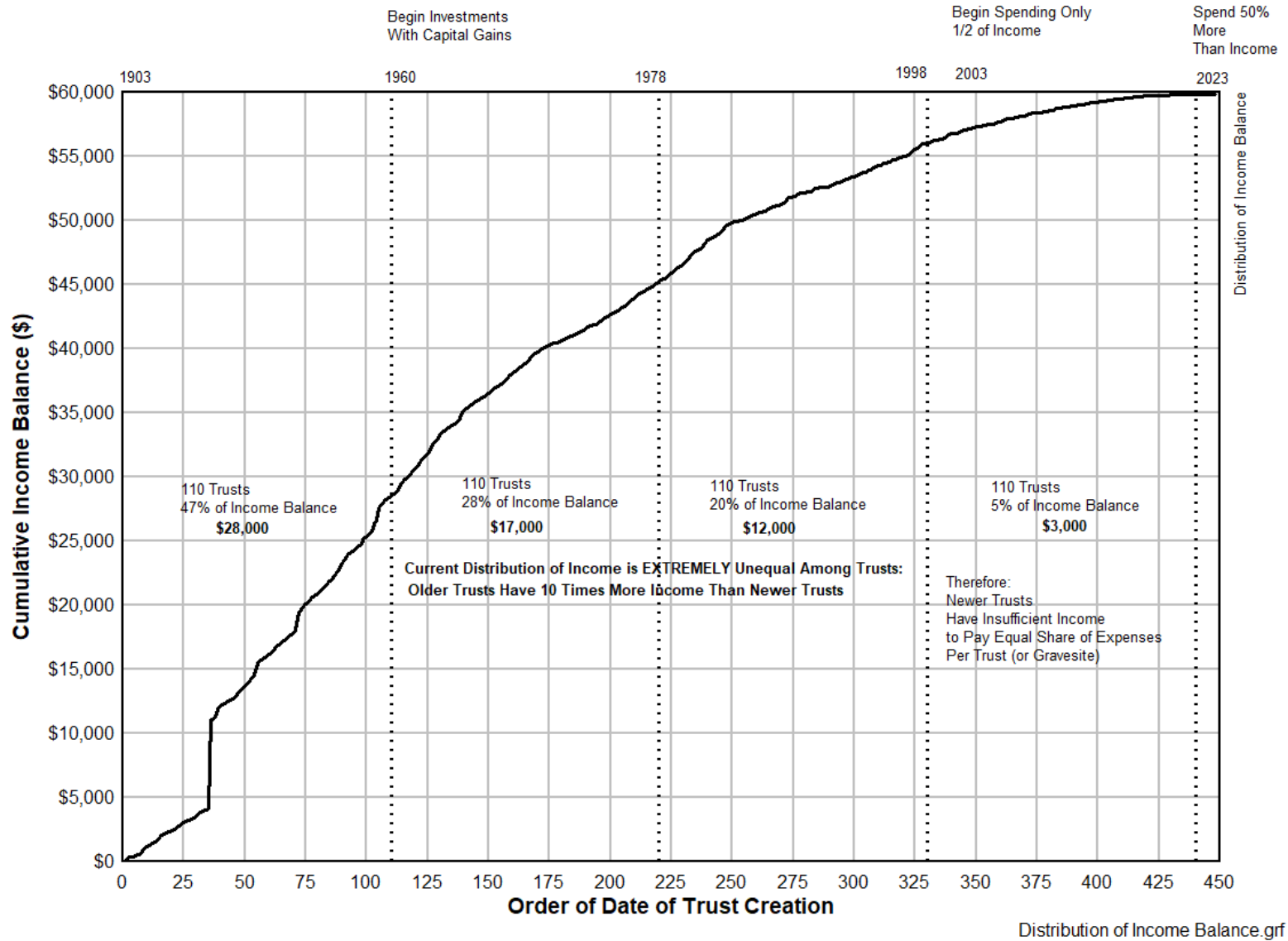


Figure 3. Current Distribution of Income is EXTREMELY Unequal Among Trusts

Table 3. Why Are CPC Trust Principal and Income Balances so Unequal?

Because of past management decisions regarding:

- Principal Balances after Investing in Mutual Funds with Capital Gains (1960 to present).
(Kept the Initial Principal – the gravesite price – at \$100/gravesite for about 100 years)
- Annual Expenditures (2003 to 2022)
(Spent only 1/2 of Annual Income, adding \$40,000 to Income Balance, mostly to older Trusts)

Principal and Income Accounting for Cemetery Perpetual Care Trusts

$$\text{(EOY Principal Balance)} = \text{(BOY Principal Balance)} + \text{(Lot Purchases)} + \text{(Capital Gains)}$$

Allocation Now By:	each Lot Price	∞ Principal Balance
Alternate Allocation By	increased Lot Price?	

$$\text{(EOY Income Balance)} = \text{(BOY Income Balance)} + \text{(Div. \& Int. Income)} - \text{(Expenditures)}$$

Allocation Now By:	∞ Principal Balance	∞ Principal Balance???
Alternate Allocation By:		Per Plot/Trust (required) ∞ Income Balance???

First Step: Review Options and Goals for Managing CPC Trusts

The CPC Trust management plan needs to be reviewed and documented. The Trustees of the Trust Funds should consult with a financial expert to review what the Trust can and should do to:

1. Manage Principal Balance for each Trust (*Keep unequal? Try to equalize?*)
2. Accumulate Principal to each Trust (*Increase purchase price as Capital Gains accrue?*)
3. Allocate Capital Gains and Income to each Trust (*Proportional to Balance*)
4. Manage annual Expenditures (*Less than annual Income? Equal to annual Income? Exceed annual Income -- to tap surplus Income: Older Trusts first? To newer Trusts and accept consequences to Trusts and Town?*)
5. Allocate Expenditures to each Trust (*By gravesite directly, or equal share*)
6. Manage Income Balance for each Trust (*Keep unequal? Try to equalize? Target a minimum Balance?*)
7. (Alternative) Petition NH Probate court to merge Perpetual Care Trusts and put all proceeds into a single Common Trust? (*Will take a long time and incur expenses for legal fees?*)

The goal is to better understand what is allowed and plan how to proceed in the future.

Interim Suggestions

- Limit expenditures to older Trusts for now?
- Limit annual Trust Expenditures to less than or equal to annual Income for future?
- Review the list of Expenditures that the CPC Trust could cover and how each would be allocated.
- Consider the possibility of reimbursing the Town for some portion of the cost of Groundskeeping?
- Compile data base for each CPC Trust that may be needed to allocate shared expenditures (# of gravesites per Trust, # of headstones per Trust, & cemetery location?)
- Identify the Town Account that will pay for any shortfalls that any individual Trust cannot cover.

Attachment A. Summary of Funds, Dollar Sources, and Expenditures for Cemetery Expenses

Account	Fund Type (on MS-9)	Fund Purpose (on MS-9)	\$ Source (allocation)	\$ Spent (allocation)	Spending Restrictions
Town Cemeteries (01-4191.10)	n/a	n/a	Taxes & Income	<ul style="list-style-type: none"> • Groundskeeping • Any shortfall between a CPC Trust’s allocated expense share for groundskeeping and its Income Balance 	None
Trust Funds (448 named Trusts, from Ryder, 1903 to Patterson, 2023)	Trust (Don	Cemetery Perpetual Care (CPC)	Lot sales/ donations (by Trust) & Income (by Balance)	Expenditure allocatable to specific gravesite: ³ <ul style="list-style-type: none"> • Headstone reset (by lot) • Headstone cleaning (by lot & Cemetery?) • Reimburse share of Groundskeeping care on Town Cemeteries Account (by lot?) 	Spend Income Only & Allocate by Gravesite
Town Property ETF (2000) or Cemetery Appurtenance Maintenance ETF (new?) or Cemetery Appurtenance Maintenance Trust (new?)	ETF ETF Trust (Donor)	Discretionary/ Benefit of the Town Cemetery (Other) Cemetery (Other)	Taxes & Income Taxes & Income Donations & Income	Expenditure for general cemetery maintenance and improvement (other than groundskeeping): <ul style="list-style-type: none"> • Fences? • Tree work? • Roads and paths? • Mapping? • Any shortfall between a CPC Trust’s allocated expense share for headstone care and its Income Balance 	None
Cemetery Mower/Building CRF (2015)		Discretionary/ Benefit of the Town	Taxes & Income	<ul style="list-style-type: none"> • Purchase mower equipment • Purchase mower building (<i>done</i>) 	None

³ Unless or until Orford obtains permission from a NH Probate Court to expend CPC Trust Income for general cemetery maintenance and improvement.

Attachment B. Management History of the Cemetery Perpetual Care Trusts

What Was Done	What Should Have Been Done
<p>Capital Gains ignored in PRINCIPAL of each Trust (1957-1983)</p> <p>In 1982, accumulated Capital Gains suddenly distributed to PRINCIPAL for 168 oldest Trusts (1903-1970), but NOT to 75 Trusts (1971-1982)</p> <p>Capital Gains included in PRINCIPAL for all Trusts from 1984 to present, allocated by Principal Balance</p>	<p>Capital Gains allocated to PRINCIPAL of each Trust beginning 1957.</p> <p align="center">AND</p> <p><i>[Better management strategy: Beginning 1957, periodically increase price of gravesites, i.e. new PRINCIPAL, to equalize among all Trusts???)</i></p>
<p>INCOME shared inequitably for Trusts created 1957 to 1983</p>	<p>INCOME shared equally per gravesite in each Trust</p>
<p>EXPENDITURES allocated in proportion to Principal Balance (not per gravesite)</p> <p>EXPENDITURES for general cemetery maintenance and improvement occasionally charged to Cemetery Perpetual Care Trusts, instead of to Town of Orford.</p>	<p>EXPENDITURES allocated per gravesite, i.e. to each Trust per number of gravesites in plot.</p>
<p>Consequences are:</p> <ul style="list-style-type: none"> • Older Trusts have 4 times the Principal Balance per gravesite vs. newer Trusts • Older Trusts have 10 times the spendable Income Balance per gravesite vs. newer Trusts 	<p>Consequences would have been:</p> <ul style="list-style-type: none"> • All Trusts have approximately equal Principal and Income Balances per gravesite