

WISCASSET BOARD OF SELECTMEN,
BOARD OF ASSESSORS AND OVERSEERS OF THE POOR
JANUARY 8, 2013

Preliminary Minutes

Tape recorded meeting

Present: Judy Colby, Chair Pam Dunning, Vice Chair Ed Polewarczyk, Jeff Slack and Town Manager Laurie Smith

Absent: Bill Curtis

1. 6 p.m. Call to Order

2. Goal-setting Workshop

3. 7 p.m. Resume Meeting

4. Pledge of Allegiance to the Flag of the United States of America

5. Approval of Treasurer's Warrant: December 25, 2012 and January 8, 2013

Judy Colby moved to approve the Treasurer's Warrant of December 25, 2012. Vote 4-0-0. Judy Colby moved to approve the Treasurer's Warrant of January 8, 2013. Vote 4-0-0.

6. Approval of Minutes: December 18, 2012

Ed Polewarczyk moved to approve the minutes of December 18, 2012. Vote 4-0-0.

7. Executive Session regarding personnel

Ed Polewarczyk moved that the Board of Selectmen go into Executive Session pursuant to 1 M.R.S.A §405(6)(A) to discuss personnel. Vote 4-0-0. The board entered executive session at 7:09 p.m. and exited at 7:24 p.m. Judy Colby moved to come out of executive session. Vote 4-0-0.

8. Special Presentations or Awards:

A. Firefighter Training Recognition Awards with Chief Rob Bickford – Postponed to next meeting.

B. Audit Presentation – RHR Smith – Ron Smith: Smith reported on the audit for the year ending June 30, 2012 at which time the town had assets of \$2.3 million in its general fund against liabilities of \$900,000, leaving a surplus of \$1.4 million; undesignated surplus was \$603,000, a decrease from the previous year. He emphasized that the town needed a fund balance policy. With an operating budget of \$10 million including education, the fund balance should be 30, 60 or 90 days of operating budget (or \$800,000, \$1.6 million or \$2.4 million respectively). The town now has 23 days of operating budget as its fund balance. He also advised the town to develop a write-off policy for the Rescue Department. Approximately \$125,000 is currently outstanding, and \$50,000 to \$60,000 could be written off, as industry standards predict that amount will not be collectible. Several minor changes were made to the document. **Ed Polewarczyk moved to approve the audit with recommended changes. Vote 4-0-0.**

9. Appointments

A. Appointment of Christine Wolfe: Ed Polewarczyk moved to appoint Christine Wolfe as the Registrar of Voters, with a term to expire on December 31, 2015. Vote 4-0-0.

B. Appointment of Neal Larrabee: Judy Colby moved to appoint Neal Larrabee to the Conservation Commission, with a term to expire on December 31, 2015. Vote 4-0-0.

10. Public Comment

In response to David Sutter's question regarding the harbormaster's vacation, Laurie Smith said the harbormaster was not on the payroll during these winter months but if anything arises, he can be reached by email or phone or it will be handled in house.

Donald Jones said the Gardiner Road sidewalk had not been plowed since the last storm.

Clarke Jones, referring to the goals discussed earlier, questioned the need for a new fire station which would only require more taxes. Pam Dunning explained that the fire station probably would not be addressed in the coming year as it was not among the selectmen's highest priorities.

11. Department Head or Committee Chair Report – none

12. Unfinished Business

A. Committee Review Report

A.1 Discussion with Transportation Committee: The Town Manager said that before the committee took any action on the subcommittee's recommendation, Don Jones, chair of the Transportation Committee, had been asked to discuss the need for the committee with the board. Jones agreed with the view of the board that the committee be disbanded if not needed at the present time, but he would be willing to participate in an ad hoc committee in the future if needed. **Ed Polewarczyk moved to disband the Transportation Committee at this time with the understanding that they may be made into an ad hoc committee in the future in case the need for further work is done and also with a great deal of appreciation from the Town of the Wiscasset for the years of effort that have been spent by this committee. Vote 4-0-0.** Pam Dunning asked that a letter of appreciation be sent to the committee.

A.2 Review of Cemetery Ad hoc Committee: David Sutter, former member of the Cemetery Committee, asked that the board look further into replacing the committee with an ad hoc committee. He said the town is obligated by the cemetery trust account to have a Cemetery Committee and the terms of the trust should be reviewed as to what the money can be spent on. He questioned the use of money from the perpetual care account for uses not specified in the trust and use of funds other than interest on the trust fund. He said he had applied for membership on the committee three years in a row without any response. Pam Dunning said an ad hoc committee would not handle financial affairs but would update cemetery mapping and records, create a data base, consider rules and regulations for plantings and adornments with guidelines as to length of time they may be left. Ed Polewarczyk recommended not taking action until the board has an opportunity to understand the legal obligations

of the trust fund. **He moved to postpone a decision on the ad hoc committee until such time as we can look at the trust and have our responsibilities clearly defined.** Don Jones said he had applied three years to be on the committee without response and would be interested in serving on an ad hoc committee. He said he was interested in the appearance, maintenance and rules, which have not been enforced, and would like to see restrictions on planting trees in the cemetery which present problems when they grow too large. Sutter said that regulations are in place to address some of the maintenance issues. Pam Dunning said it would be necessary to determine what rules have been given to owners of cemetery plots. **Vote 4-0-0.**

13. New Business

A. Discussion of the State's Revenue Sharing and proposed letter to legislators: Smith had drafted a letter to the town's elected state representatives for the board's review regarding opposition to the decrease in revenue sharing under consideration. A correction was made: the Representative is Tim Marks. **Judy Colby moved to send the letter to our state legislators. Vote 4-0-0.**

B. Discussion of Wiscasset's public payphone: Fairpoint has informed the town that in order to keep the payphone in Wiscasset, a monthly charge of \$75 per phone would be charged by Pacific Telemanagement Services. **Judy Colby moved to notify Fairpoint that the Town of Wiscasset can dispense with a payphone. Vote 4-0-0.**

14. Town Manager's Report

A. Road Safety Audit Update with Gerry Audibert, MDOT, at 6 p.m. on January 15.

B. Assessors' workshop on January 15 following the MDOT workshop.

C. Investment Committee presentation on January 22.

D. Transfer Station bid award letters for 4-yard Packer and 4550 Yard Compaction Container were sent.

E. General Update: The cemetery truck is on the lift if the selectmen would like to see its condition before repair. Ed Polewarczyk will meet the town manager at the town office on Wednesday, January 9.

15. Other Business

Ed Polewarczyk moved to enter executive session pursuant to 1 M.R.S.A. §405(6)(D) to discuss labor negotiations. Vote 4-0-0. The board entered executive session at 8:26 and exited at 8:32. **Jeff Slack moved to come out of executive session. Vote 4-0-0.**

16. Adjournment

Jeff Slack moved to adjourn. Vote 4-0-0.

State of Maine.

Certificate of Organization of a Corporation, under Chapter
Fifty-seven of the Revised Statutes, and Amendments Thereto.

The undersigned, officers of a corporation duly organized at
Wiscasset, in the town of Wiscasset, State of Maine, on the twenty-
fifth day of September A. D. 1909, hereby certify as follows:

The name of said corporation is The Wiscasset Cemetery Association
The purposes of said corporation are the ownership, management and
improvement of the cemetery properties now owned, or to be acquired
by the town of Wiscasset, Maine, and such other cemeteries or lands
therefor situate in said town as the funds of the corporation shall
from time to time admit

Said corporation is located in the town of Wiscasset County of
Lincoln State of Maine.

The number of officers is ----- and their names are as follows:

President, William D. Patterson Vice President, William G. Hubbard
Secretary or Clerk, Susan Grant Smith Treasurer, Fannie T. Hubbard
Board of Managers, Erastus Foote, William Taylor, William G. Hubbard,
Alvin F. Sortwell, Fannie T. Hubbard, Joseph P. Tucker, Charles E.
Emerson, Ruth S. Hubbard, William D. Patterson.

Witness our hands this fifth day of October, A. D. 1909

William D. Patterson	President.
Fannie T. Hubbard	Treasurer.
Chas. E. Emerson	
J. P. Tucker	
Wm Taylor	Managers.
W. G. Hubbard	
Erastus Foote	

(This certificate must be filed in Office of Secretary of State
within 60 days of date of organization.)

STATE OF MAINE

COUNTY OF LINCOLN, ss.

Superior Court

In the matter of

THE WISCASSET CEMETERY ASSOCIATION

and

INHABITANTS OF THE TOWN OF WISCASSET, MAINE

Petitioners

FINAL DECREE

This matter came on to be heard this day, and it appearing that notice of the pendency of the plaintiffs' petition was given as directed in the Order of Notice issued by this Court; and it further appearing that no other party has appeared in this said cause, whether in opposition to the prayers of the plaintiffs' petition or otherwise; and hearing having been had; now, therefore, in consideration thereof, it is hereby

ORDERED, ADJUDGED AND DECREED

as follows, to wit:-

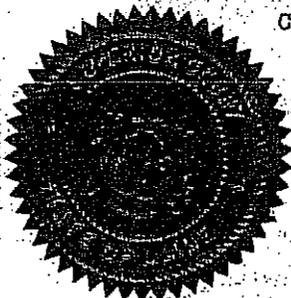
1. That the plaintiffs' petition be granted.
2. That under present day conditions, all services and functions heretofore performed by said WISCASSET CEMETERY ASSOCIATION can best be performed and discharged by the TOWN OF WISCASSET, MAINE.
3. That the TOWN OF WISCASSET, MAINE, being a corporate body, existing and carrying on similar functions with respect to cemeteries as the said THE WISCASSET CEMETERY ASSOCIATION has previously performed, is a proper body to receive all of the property described in the plaintiffs' petition to be administered and applied in the manner and for the purposes provided by the several donors thereof, or as originally intended at the time of the purchase or acquisition thereof, so far as the same can now be ascertained and determined.
4. That the proposed conveyance and transfer of certain real and personal property consisting of land and personal property in the form of bonds and bank accounts, more particularly described in the schedule of assets attached to the plaintiffs' petition from THE WISCASSET CEMETERY ASSOCIATION to the said TOWN OF WISCASSET, MAINE, be and hereby is approved.

Dated at Wiscasset, in the County of Lincoln and State of Maine, this 15th day of November, in the year of our Lord one thousand nine hundred and fifty-five.

Abraham M. Rudman
Justice Superior Court

Clark Superior Court

Certified Copy:



RECEIVED

Vertical stamp text including 'RECEIVED', 'NOV 15 1955', and other administrative markings.

State of Maine

Lincoln, ss.

SUPERIOR COURT

Clerk's Office, _____ October 10, _____ A. D. 19 55

I, Geo. A. Cowan, Clerk of the Superior Court within and for the County of Lincoln in the State of Maine, hereby certify that there has this day been filed in this office a Petition for Transfer, at law, ~~bill of complaint in equity~~, the date of which is October 4, A. D. 1955, in which The Wiscasset Cemetery Association and the Inhabitants of the Town of Wiscasset of Wiscasset is plaintiffs, and Unknown Persons of unknown is defendant, in which bill of complaint the title to real estate is involved.

Said real estate is situated in Wiscasset and is bounded and described as follows:

(a) All of the land situated in the following cemeteries located in Wiscasset which has not been previously conveyed:

Woodlawn Cemetery

At a Special meeting of the inhabitants of the Town of Wiscasset, County of Lincoln

held July 5th, 1955, it was voted:

Article 6 of the Warrant:

voted to accept all assets, together with all Trust Funds and Real Estate, acquired or to be acquired by the Wiscasset Cemetery Association which may be transferred and conveyed to the said Town of Wiscasset by the said Wiscasset Cemetery Association when and if the said Cemetery Association so votes and a Justice of the Superior Court of the State of Maine has approved said transfer."

A true copy,
Attest:

Charles S. Lovell

Clerk of the Town of Wiscasset.

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Chapter 83: CEMETERY CORPORATIONS

Subchapter 1: GENERAL PROVISIONS

§1031. Unauthorized establishment; injunction

Any cemetery, community mausoleum or columbarium established, maintained or operated in violation of or contrary to this chapter is declared to be a nuisance, which may be abated or enjoined as such by the civil action of any citizen of this State.

§1032. Disposal of bodies

Except as otherwise provided by law, or in case of a dead body being rightfully carried through or removed from the State for the purpose of burial or disposition elsewhere, every dead body of a human being dying within the State and the remains of any body after dissection therein shall be decently buried, entombed in a mausoleum, vault or tomb, or cremated within a reasonable time after death. The permanent disposition of such bodies or remains shall be by interment in the earth, or deposit in a chamber, vault or tomb of a cemetery owned, maintained and operated in accordance with the laws of this State, by deposit in a crypt of a mausoleum, or by cremation. The remains of a human body after cremation may be deposited in a niche of a columbarium or a crypt of a mausoleum, buried or disposed of in any manner not contrary to law. No deposit of the bodies or remains of the human dead shall be made in a single chamber, vault or tomb partly above and partly below the natural surface of the ground, unless the part thereof below such surface is of a permanent character, constructed of materials capable of withstanding extreme climatic conditions, waterproof and air tight, and capable of being sealed permanently to prevent all escape of effluvia, and unless the part thereof above the natural surface of the ground is constructed of natural stone of a standard not less than that required by the United States Government for monuments erected in national cemeteries, or durability sufficient to withstand all conditions of weather.

§1033. Vested rights

This chapter shall not be construed as affecting any vested rights of any cemetery association or other agency owning, maintaining and operating a cemetery or crematory immediately prior to July 24, 1937. Insofar as this chapter does not violate any such vested rights, it shall, except as otherwise provided, apply to all such cemetery associations or other agencies.

§1034. Jurisdiction

The Superior Court shall have original and concurrent jurisdiction in all cases under this chapter. Judges of the District Court may cause the persons brought before them on complaint for violation of sections 1342 or 1343 to recognize with sufficient sureties to appear at the next term of the Superior Court and, in default thereof, shall commit them.

§1035. Penalties

Whoever fails to comply with or violates any of the provisions of this chapter in respect to the establishment, maintenance or operation of a cemetery, community mausoleum, crematory or columbarium, or to the disposal of dead human bodies shall, unless another penalty is provided under this chapter, be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 6 months, or by both.

§1036. Recovery of fines or penalties

All fines or penalties provided by section 1035 may be recovered or enforced by indictment, and the necessary processes for causing the crypts and catacombs to be sealed or the bodies to be removed and buried, and execution to recover the necessary expenses thereof, may be issued by the Superior Court.

Subchapter 2: BURYING GROUNDS

Article 1: Organization

§1071. Incorporation

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Persons of lawful age may organize themselves into a nonprofit-sharing corporation for the purpose of purchasing land for a burying ground and for the purpose of owning, maintaining and operating a cemetery or cemeteries, as provided in sections 901 and 903 and may proceed in the manner and, except as restricted, with the powers provided in section 931. [1975, c. 770, § 75 (amd).]

PL 1965, Ch. 66, § (AMD).

PL 1975, Ch. 770, §75 (AMD).

Article 2: Duties of Town or County

§1101. Maintenance and repairs; municipality

In any ancient burying ground, as referenced in Title 30-A, section 5723, or public burying ground in which any Revolutionary soldiers or sailors or veterans of the Armed Forces of the United State of America who served in any war are buried, the municipality in which said burying ground is located shall keep in good condition and repair all graves, headstones, monuments or markers designating the burial place of said Revolutionary soldiers or sailors or veterans of the Armed Forces of the United States of America who served in any war and shall keep the grass suitably cut and trimmed on those graves from May 1st to September 30th of each year. [1999, c. 700, §1 (amd).]

PL 1977, Ch. 255, §1 (AMD).

PL 1999, Ch. 700, §1 (AMD).

§1101-A. Definition

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 421, §1 (amd).]

1. Ancient burying ground. "Ancient burying ground" means a private cemetery established before 1880.

[1999, c. 700, §2 (new).]

2. Columbarium. "Columbarium" means a structure or room or space in a mausoleum or other building containing niches or recesses for disposition of cremated human remains.

[2003, c. 421, §1 (new).]

3. Community mausoleum. "Community mausoleum" means an aboveground structure designed for entombment of human remains of the general public, as opposed to the entombment of the remains of family members in a privately owned, family mausoleum of no more than 6 crypts.

[2003, c. 421, §1 (new).]

PL 1999, Ch. 700, §2 (NEW).

PL 2003, Ch. 421, §1 (AMD).

§1101-B. Ancient burying grounds

1. Access to ancient burying grounds on privately owned land. The owner of an ancient burying ground shall provide municipalities access necessary to perform the duties pursuant to section 1101 and Title 30-A, section 2901. Any unreasonable denial to provide municipalities access may result in the owner being held responsible for any fines, court costs and attorney's fees incurred by municipalities in legally obtaining access or for failing to meet the requirements of section 1101.

[1999, c. 700, §2 (new).]

2. Maintenance by landowner. A person who owns a parcel of land that contains an ancient burying ground and chooses to deny access to the municipality shall assume the duties as described in section 1101 and Title 30-A, section 2901, subsection 1. Maintenance of an ancient burying ground by the owner exempts the municipality from performing the duties as described in section 1101.

[1999, c. 700, §2 (new).]

PL 1999, Ch. 700, §2 (NEW).

§1101-C. Notice of responsibility

When a municipality fails without good reason to maintain the good condition and repair of a grave, headstone, monument or marker or fails to keep the grass suitably cut and trimmed on any such grave pursuant to section 1101 and at least one of the municipal officers has had 14 days' actual notice or knowledge of the neglected condition, a penalty of not more than \$100 may be assessed on the

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municipality. [1999, c. 700, §2 (new).]

PL 1999, Ch. 700, §2 (NEW).

§1101-D. Unorganized townships

If an ancient burying ground or a public burying ground as described in section 1101 is located in an unorganized township, the county in which the township is located is subject to sections 1101, 1101-B and 1101-C. [1999, c. 700, §2 (new).]

PL 1999, Ch. 700, §2 (NEW).

§1101-E. Graves on land owned by Federal Government

Veterans' graves as described in section 1101 that are located on a site that was owned by the Federal Government as of January 1, 2000 are not subject to the requirements of section 1101. [1999, c. 700, §2 (new).]

PL 1999, Ch. 700, §2 (NEW).

§1102. -- neglect

If such officers, treasurer or committee neglect so to apply such fines, they each forfeit the amount thereof, in a civil action, to any person suing therefor.

§1103. -- unincorporated places (REPEALED)

PL 1983, Ch. 471, §1 (RP).

Article 3: Exemption From Attachment

§1141. Grounds inalienable; description recorded

When any persons appropriate for a burying ground a piece of land containing not more than 1/2 of an acre, it shall be exempt from attachment and execution, and inalienable and indivisible by the owners without the consent of all; and be kept fenced or otherwise substantially marked and occupied as a burying ground. They shall cause a written description of it, under their hands, attested by 2 disinterested witnesses, to be recorded in the registry of deeds in the county or district where it lies or by the clerk of the town where it is situated.

§1142. Family burying grounds

When a person appropriates for a family burying ground a piece of land containing not more than 1/4 of an acre, causes a description of it to be recorded in the registry of deeds of the same county or by the clerk of the town where it is situated and substantially marks the bounds of the burying ground or encloses it with a fence, it is exempt from attachment and execution. No subsequent conveyance of it is valid while any person is interred in the burying ground; but it must remain to the person who appropriated, recorded and marked that burying ground and to that person's heirs as a burial place forever. If property surrounding a burying ground appropriated pursuant to this section is conveyed, the property is conveyed by the person who appropriated the property or by an heir of that person and the conveyance causes the burying ground to be inaccessible from any public way, the conveyance is made subject to an easement for the benefit of the spouse, ancestors and descendants of any person interred in the burying ground. The easement may be used only by persons to walk in a direct route from the public way nearest the burying ground to the burying ground at reasonable hours. [1991, c. 412, §1 (amd).]

PL 1991, Ch. 412, §1 (AMD).

§1143. Lots

Lots in public or private cemeteries are exempt from attachment and levy on execution and from liability to be sold by executors and administrators of insolvent estates for the payment of debts and charges of administration. Only one lot shall be so exempt for any one person.

Article 4: Enlargement of Grounds

§1181. Restrictions and conditions

The municipal officers of any town may on petition of 10 voters enlarge any public cemetery or burying ground or incorporated

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cemetery or burying ground within their town by taking land of adjacent owners, to be paid for by the town or otherwise as the municipal officers may direct, when in their judgment public necessity requires it. The limits thereof shall not be extended nearer any improved land used for recreational purposes or dwelling house than 100 feet, or nearer any well, from which the water is used for domestic purposes, than 200 feet, against the written protest of the owner made to the officers at the time of the hearing on the petition. Nor shall any person, corporation or association establish, locate or enlarge any cemetery or burying ground by selling or otherwise disposing of land so that the limits thereof shall be extended nearer any improved land used for recreational purposes or dwelling house than 100 feet, or nearer any well, from which the water is used for domestic purposes, than 200 feet, against the written protest of the owner. Nothing in this section shall prohibit the sale or disposition of lots within the limits of any existing cemetery or burying ground, nor the extension thereof away from any improved land used for recreational purposes or dwelling house or well. This section shall not apply to land acquired under Title 37-A, section 15. [1981, c. 33 (amd).]

PL 1967, Ch. 502, §1 (AMD) .

PL 1973, Ch. 537, §18 (AMD) .

PL 1981, Ch. 33, § (AMD) .

§1182. Notice

Notice of a time and place for a hearing held under section 1181 shall be given by posting written notices thereof, signed by said officers, at least 7 days prior thereto, in 2 public places in said town. A copy of such notice and of the petition shall be served on the owners of the land at least 10 days before the day of hearing.

§1183. Damages for land taken; town vote

If the municipal officers at the hearing held under section 1181 grant the prayer of the petitioners, they shall then determine what land shall be taken and assess the damages suffered by each person thereby, as if the land were taken for town ways, make a written return of their proceedings, specifying the land taken and the damages awarded each person and file the same with the town clerk. Such cemetery or burying ground shall not be enlarged, pursuant to such return, until so voted by the town at its next annual meeting. [1975, c. 431, § 3 (amd).]

PL 1975, Ch. 431, §3 (AMD) .

§1184. Persons aggrieved; remedy

Any person aggrieved by the amount of damages awarded may have them determined by written complaint to the Superior Court in the manner provided respecting damages for the establishment of town ways.

Article 5: Conveyance to Town

§1221. Proceedings

Any private cemetery or burying ground, by written agreement of all the owners thereof, recorded by the clerk of the town in which it is situated may, by vote of such town within one month after the recording of such agreement by the town clerk, become public and subject to the law relating to public cemeteries or burying grounds, provided such agreement is not in conflict with the terms of any conveyance or devise of land for the purposes of a burying ground.

§1222. Acceptance; exemption from liability; trust funds for repairs

Any city, town, cemetery corporation, trust company or trustee may accept any conveyance of land not exceeding 1/2 acre, to be forever held, kept and used for a private or family burying ground for the grantors and such of their heirs and relatives by blood or marriage as the conveyance shall designate. Such lot and all erections thereon, including the erection and maintenance of the same, and fixtures thereto suitable for its use or adornment as a burying ground, are forever inalienable and indivisible and exempt from liability for debt. Such city, town, corporation, company or trustee may accept and forever hold any donation or legacy for insuring proper care and attention to any burial lot or ground and the avenues thereof and the monuments thereon. Having accepted such donation or legacy, said trustee becomes bound to perform the duties appertaining to the trust as specified in the writing creating the same or, in default of such specification, as required by law, and as in cases of public charity. Any city or town without giving bond therefor may be appointed by the probate court testamentary trustee for the purpose of holding forever, in accordance with this section and the terms of the devise, any fund devised for the purposes aforesaid. Any such city, town, cemetery corporation, trust company, or trustee failing to furnish proper care and attention to any burial lot, the perpetual care whereof has been provided for as above, shall be punished by a fine of not less than \$50 nor more than \$100, to be recovered by complaint or indictment. The District Court and the Superior Court shall have concurrent jurisdiction. Of all fines provided for under this section and recovered on complaint, 1/2 shall go to the prosecutor and 1/2 to the county where the city, town, cemetery corporation; trust company or trustee committing the offense is situated. Nothing herein contained shall be construed to compel any such city, town, cemetery corporation, trust company or trustee to expend in any one year upon any such lot more than the income from any such fund.

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§1223. Investment of funds

Cemetery trust funds of any cemetery corporation or association, trust company, church, religious or charitable society, or other trustee, shall be invested in the manner provided in Title 30-A, chapter 223, subchapter III-A, and, unless the instrument or order creating the trusts prohibits, may be combined with other similar trust funds in the manner provided in Title 30-A, section 5654, and the annual income only shall be expended in performance of the requirements of the trust. [1987 c. 737, Pt. C, §§24, 106 (amd); 1989 c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §8, 10 (amd).]

PL 1987, Ch. 737, §C24,C106 (AMD).

PL 1989, Ch. 6, § (AMD).

PL 1989, Ch. 9, §2 (AMD).

PL 1989, Ch. 104, §C8,C10 (AMD).

§1224. Recording of acceptance

A copy of the record of the vote of the trustee so accepting a conveyance of lands shall be indorsed on the conveyance and certified thereon by the clerk of the grantee and recorded in the registry of deeds with the conveyance.

Article 6: Trust Funds

§1261. Authority to hold

Any person owning or interested in a lot or lots in a public burying ground of a city or town may deposit with the treasurer of such city or town a sum of money for the purpose of providing for the preservation and care of such lot or lots, or their appurtenances, which sum shall be entered upon the books of the treasurer and invested and held in accordance with Title 30-A, chapter 223, subchapter III-A. [1987 c. 737, Pt. C, §§25, 106 (amd); 1989 c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §8, 10 (amd).]

PL 1987, Ch. 737, §C25,C106 (AMD).

PL 1989, Ch. 6, § (AMD).

PL 1989, Ch. 9, §2 (AMD).

PL 1989, Ch. 104, §C8,C10 (AMD).

§1262. Bylaws and ordinances

A city or town may pass such ordinances or bylaws as may be necessary for the purposes of section 1261 and not repugnant to law, and may receive such money for said purposes, and may invest and hold the same as provided in section 1261.

§1263. Acceptance of deposits

When any person owning or interested in a lot in a public burying ground in a city or town deposits with the treasurer of such city or town a sum of money for the preservation or care of such lot as provided by section 1262, said city or town may accept a conveyance of such lot for the uses and upon the trusts which may be set forth in said conveyance, and may bind itself to keep and perform the agreements, uses and trusts contained in the deed of conveyance of such lot.

§1264. Trust funds for services or property

1. **Trust accounts.** Pre-need funds received for cemetery or crematory services or property to be delivered at or after the date of death must be placed in a cemetery or crematory trust account in a bank, trust company, credit union or savings institution. For purposes of this subsection, "pre-need funds" means all money paid during a person's lifetime to a cemetery or crematory by that person or by another person on that person's behalf under an agreement that services will be performed or property will be delivered in connection with the disposition of that person's body after that person's death.

[1995, c. 474, §1 (new).]

2. **Trust agreement.** A trust agreement setting forth the following information must be signed by the payor and the payee and the original agreement must be given to the payor and a copy of that agreement must be given to the payee:

A. The name and address of the individual for whose benefit services or property will be delivered;

[1995, c. 474, §1 (new).]

B. The name of the entity acting as trustee;

[1995, c. 474, §1 (new).]

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C. The name and address of the payor;

[1995, c. 474, §1 (new) .]

D. The services or property that will be provided by the payee;

[1995, c. 474, §1 (new) .]

E. Statements that a full refund of the principal of the funds placed in trust must be made by the payee upon written request of the payor, the payor's attorney-in-fact or the payor's personal representative and that, in the absence of such a request, the payee may withdraw the funds only upon the death of the person for whose benefit the funds were paid and shall use the funds in accordance with the purposes identified in the trust agreement; and

[1995, c. 474, §1 (new) .]

F. A statement that interest on funds placed in trust will not be paid to the payor in the event of a refund of principal of trust funds and any interest that may accrue remains with the payee.

[1995, c. 474, §1 (new) .]

[1995, c. 474, §1 (new) .]

3. Services and property covered. This section applies to cemetery or crematory services such as cremation fees, grave opening and closing charges and inscription of death dates. This section does not apply to the sale of cemetery lots or plots, monuments and memorials, garden crypts, lawn crypts, mausoleum crypts, cremation urns and niches, vaults, liners and similar tangible personal property if title to and physical possession of the specific property has passed to the buyer. Any funds expended to purchase tangible personal property when that personal property is held by the payee until the time of need are not considered funds that must be placed in the trust account.

[1995, c. 474, §1 (new) .]

4. Refund provisions. A full refund of the principal of the funds placed in trust must be made by the payee upon written request of the payor, the payor's attorney-in-fact or the payor's personal representative. In the absence of such a request, the payee may withdraw the funds only upon the death of the person for whose benefit the funds were paid and shall use the funds in accordance with the purposes identified on the trust agreement.

[1995, c. 474, §1 (new) .]

5. Administrative fees. The payee may not charge the payor, the payor's attorney-in-fact or the payor's personal representative an administrative fee for funds or tangible personal property held in trust.

[1995, c. 474, §1 (new) .]

6. Application. The provisions of this section apply only to funds received by a payee of a trust account after the effective date of this section.

[1995, c. 474, §1 (new) .]

PL 1995, Ch. 474, §1 (NEW) .

§1265. Tangible personal property

Upon written request and payment of any reasonable out-of-pocket expenses, a cemetery or crematory shall deliver to a person, the person's attorney-in-fact or the person's personal representative any item of tangible personal property purchased by that person but remaining in the possession of the cemetery or crematory. [1995, c. 474, §1 (new) .]

PL 1995, Ch. 474, §1 (NEW) .

§1266. Solicitation of cemetery or crematory services or property

Uninvited telephone or door-to-door solicitations for crematory or cemetery services or property are prohibited. This section may not be construed to limit the raising of funds for capital improvements as long as those funds are not raised through the purchase of cemetery or crematory services or property. Uninvited solicitations may not be construed to include solicitations resulting from uninvited good-faith personal referrals from individuals purchasing services or property from a cemetery or crematory. [1995, c. 474, §1 (new) .]

PL 1995, Ch. 474, §1 (NEW) .

§1267. Penalties

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Any person who violates section 1264 or 1265 commits theft according to the classifications set forth in Title 17-A, section 362. Any person who violates section 1266 commits a civil violation and is subject to a fine of not less than \$100 and not more than \$500. [1995, c. 474, §1 (new).]

PL 1995, Ch. 474, §1 (NEW).

Subchapter 3: PUBLIC CEMETERIES

§1301. Incorporation; exemption from attachment and taxation

Any 7 or more persons may be incorporated, not for profit, in the manner provided in section 901 for the purpose of owning, managing and protecting lands and their appurtenances appropriated for public cemeteries. The property of such corporations and the shares of stock therein are exempt from attachment and taxation. Any cemetery corporation may accept and receive donations of money, general legacies and devises of real estate or legacies in trust, for the purpose of landscaping, general beautification and care of lots, memorials, avenues and plots in said cemetery, without being appointed or confirmed by any court as such trustee. [1975, c. 770, § 76 (amd).]

PL 1975, Ch. 770, §76 (AMD).

§1302. Recording of deeds

Deeds of burial lots in any public cemetery may be recorded in the registry of deeds for the county or district where such cemetery is situated.

§1303. Ownership and operation

Every cemetery, except Veterans' Memorial Cemetery established under Title 37-A, chapter 2, hereafter established shall be owned, maintained or operated by a municipality or other political subdivision of the State, a church, a religious or charitable society, or by a cemetery association incorporated as provided in section 1071 or 1301. [1973, c. 537, § 19.]

Every such cemetery shall be located in accordance with statutes already in force and effect, and only after consent for such location has been obtained from the municipality or other political subdivision where the same is proposed to be located, as well as from the Bureau of Health. No cemetery, community mausoleum, crematory or columbarium hereafter established shall be maintained or operated for the purpose of private profit or gain, either directly or indirectly, to any director, officer or member of the cemetery association or other agency owning, maintaining or operating the same, or of any holding company or development company employed to develop, build and dispose of the same. A cemetery lawfully established prior to July 24, 1937 may continue to be owned, maintained and operated under the form of organization adopted therefor. Any corporation organized prior to July 24, 1937 which is authorized or empowered to own, construct, maintain or operate cemeteries or burial grounds may lawfully own, construct, maintain or operate mausoleums, crematories or columbaria in connection therewith, in accordance with the laws existing and effective up to the time of July 24, 1937.

PL 1967, Ch. 502, §2 (AMD).

PL 1973, Ch. 537, §19 (AMD).

§1304. Sales for speculation or investment

The sale of cemetery lots and plots, or the sale of crypts in a community mausoleum or niches in a columbarium for speculative or financial investment purposes, or the conveyance of any portion of a cemetery already dedicated to burial purposes as security for debt, is prohibited. Every such conveyance, whether made by a person or by a cemetery association, or by a company or association owning and operating a community mausoleum, crematory or columbarium, or by any holding, development or subsidiary company, shall be void and of no effect. Whoever makes or attempts to make a sale or conveyance contrary to this section shall be guilty of a misdemeanor and punished as provided in section 1035.

§1305. Care and maintenance

The proceeds of the sales of lots and plots in a cemetery shall be applied solely to the management, superintendence, improvement and maintenance of the cemetery and the avenues, paths and structures situated therein, for the purchase of additional cemetery land and for the accumulation of a permanent care and improvement fund. If any indebtedness of a fixed amount is incurred in the purchase of lands for such cemetery, or in making any improvement therein, a sum not exceeding 50% of the gross receipts from the sale of burial lots and plots may be applied to the liquidation of such indebtedness. All moneys received from the sale of personal property and surplus real estate of a cemetery shall be applied first to the liquidation of any fixed indebtedness incurred by it on account of the purchase or improvement of the lands dedicated to cemetery purposes, and any residue remaining after the liquidation of such indebtedness shall be deposited in the permanent care and improvement fund of the cemetery. This section shall not apply to any cemetery now organized and operating.

Title 13, Chapter 83, CEMETERY CORPORATIONS

§1306. Cemetery perpetual care fund

A person, corporation or any other private entity that controls a cemetery shall establish a cemetery perpetual care fund. This fund is separate from any permanent care and improvement fund for a community mausoleum on a cemetery's premises established under section 1348. The income from the cemetery perpetual care fund must be devoted to maintenance of the cemetery. This cemetery perpetual care fund must be created by depositing in the fund at least 30% of the proceeds received, in full and in installments, from the sale of lots and plots in the cemetery. This section does not apply to a family burying ground as described in section 1142. The sale of a cemetery lot or plot that is subject to a contract for the perpetual care of the lot or plot or for general cemetery maintenance is exempt from this section, as long as the contract requires that at least 30% of the proceeds from the sale of the lot or plot be set aside with the income from those funds to be used for cemetery maintenance. [1997, c. 140, §1 (new).]

PL 1997, Ch. 140, §1 (NEW).

Subchapter 4: MAUSOLEUMS AND VAULTS

§1341. Location

1. **Mausoleum, crematory or other structure.** A community mausoleum, community crematory or other community structure that holds or contains dead human bodies may only be erected in a cemetery that is at least 20 acres in size and has been in existence and used for burial for at least 2 years preceding the erection of the structure.

[2003, c. 421, §2 (amd).]

2. **Columbarium.** A columbarium that holds or contains the cremated remains of dead human bodies may only be erected in a cemetery that is at least 5 acres in size and has been in existence and used for burial for at least 2 years preceding the erection of the structure.

[1999, c. 620, §1 (new).]

3. **Exception.** This section does not apply to a structure containing crypts erected or controlled by a church or religious society used for the remains of the clergy or dignitaries of the church or religious society.

[1999, c. 620, §1 (new).]

PL 1999, Ch. 620, §1 (RPR).

PL 2003, Ch. 421, §2 (AMD).

§1342. Approval of health authority

Before any person, firm or corporation shall build, construct or erect any such community mausoleum, vault or other burial structure entirely above ground or partly above and partly by excavation, with the intention and purpose that when so built, constructed and erected the same may contain 20 or more deceased human bodies for permanent interment, such person, firm or corporation shall present all plans for such construction to the Bureau of Health and shall obtain the written approval of such plans by said bureau before proceeding with the construction and erection of said mausoleum, vault or other burial structure.

§1343. Type of construction; examinations

Any such community mausoleum or other burial structure shall be constructed of such materials and workmanship as will insure its durability and permanency as well as the safety, convenience, comfort and health of the community in which it is located, as dictated and determined at the time by modern mausoleum construction and engineering science, and all crypts or catacombs placed in a mausoleum, vault or other burial structure as described in section 1342 shall be so constructed that all parts thereof may be readily examined by the Bureau of Health or any other health officer. Such crypts or catacombs, when used for the permanent interment of a deceased body or bodies, shall be so hermetically sealed that no offensive odor or effluvia may escape therefrom.

§1344. Supervisory control of health authorities

The Bureau of Health shall have supervisory control over the erection of any such community mausoleum and shall enforce compliance with the approved plans and specifications therefor. Such bureau shall determine the reasonable amount of compensation for such supervision, which compensation shall be paid by the cemetery association or other agency erecting such community mausoleum. No departure from the original plans and specifications shall be permitted, except upon approval of the said Bureau of Health evidenced in like manner and form as the approval of the original plans and specifications.

§1345. No use before completion

No community mausoleum, crypt or structure so erected shall be used for the purpose of depositing therein the remains of any dead body until the same, or a component section thereof, is fully completed and the permanent care and improvement fund required by section

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1348 has been provided.

§1346. No sale before completion

No crypt in a community mausoleum shall be sold or offered for sale before said structure, or a component section thereof, is fully completed.

§1347. Improper conditions; removal of bodies

Whenever any mausoleum, vault, crypt or other structure containing one or more dead human bodies shall, in the opinion of the Bureau of Health, become a menace to public health and the owner thereof fails to remedy or remove the same to the satisfaction of the said bureau, any court of competent jurisdiction may order the owner of said structure to remove the dead body or bodies for interment in some suitable cemetery at the expense of such owner. If such owner cannot be found, such removal and interment shall be at the expense of the cemetery association in the cemetery in which such mausoleum, vault, crypt or other structure is situated.

§1348. Permanent care and improvement fund

Every cemetery association or other agency establishing, maintaining and operating a community mausoleum shall create and establish a permanent care and improvement fund, distinct and separate from the permanent care and improvement fund of its cemetery, the income whereof shall be devoted to the care, maintenance and improvement of such community mausoleum. Such permanent care and improvement fund shall be created by applying to such fund at least 30% of the proceeds received, in full and installments, from the sales of crypts in such mausoleum.

§1349. -- custodian

The treasurer of the cemetery in which such community mausoleum is situated shall be the custodian of the permanent care and improvement fund established therefor in section 1348 and every such fund shall be held, administered and invested in the manner provided by law for funds in savings banks of this State.

Subchapter 5: PROTECTION AND PRESERVATION (HEADING: PL 1987, c. 326, @1 (new))

§1371. Approval for repair, maintenance and removal

1. **Prior authorization or approval for repair, maintenance or removal.** Any person may repair, maintain or remove, subject to the restrictions of subsection 2, any tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or any portion or fragment of any such memorial, or any fence, railing, curb or other enclosure for the burial of the dead, after obtaining:

A. The authorization of the owner of the burial lot or a lineal descendent of the deceased buried there, if reasonable to locate and notify; or

[1987, c. 326, §1 (new).]

B. The written approval of the municipality or, in the case of unorganized territory, the county in which the cemetery or burial ground is located.

[1987, c. 326, §1 (new).]

[1987, c. 326, §1 (new).]

2. **Conditions on removal.** Removal of a tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or a portion or fragment of a memorial, is permitted only for the purpose of preservation. A tomb, monument, gravestone, marker or other structure placed or designed as a memorial to the dead, or a portion or fragment of a memorial, may not be removed from the confines of the cemetery or burial ground, except that a person who has obtained authorization or approval described in subsection 1, paragraph A or B, may remove all or a portion of a memorial for a period of no longer than 6 months for the purpose of repair, restoration or preservation, but only when repair, restoration or preservation can not reasonably be accomplished on the site of the cemetery or burial ground. Prior to removal of the memorial, a notice must be submitted to the municipality, or to the county in the case of an unorganized territory, stating the location of the burial ground, the identification of the memorial, the authority requesting the removal, the site to which the memorial will be temporarily removed, the proposed date of removal and the proposed date of replacement in the burial ground.

[1997, c. 193, §1 (amd).]

PL 1987, Ch. 326, §1 (NEW).

PL 1997, Ch. 193, §1 (AMD).

§1371-A. Limitations on construction and excavation near burial sites

1. **Known burial sites.** Construction or excavation in the area of a known burial site or within the boundaries of an established graveyard must comply with any applicable land use ordinance concerning burial sites or graveyards, whether or not the burial site or

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graveyard is properly recorded in the deed to the property. In the absence of local ordinances, construction or excavation may not be conducted within 25 feet of a known burial site or within 25 feet of the boundaries of an established graveyard, whether or not the burial site or graveyard is properly recorded in the deed to the property, except when the construction or excavation is performed pursuant to a lawful order or permit allowing the relocation of bodies or when necessary for the construction of a public improvement, as approved by the governing body of a city or town or, in the case of a state highway, by the Commissioner of Transportation.

[1991, c. 412, §2 (new).]

2. Undocumented burial site. The following procedures apply to construction or excavation that threatens an undocumented or unmarked burial site.

A. Whenever any person has knowledge that excavation or other construction activity may disturb or is disturbing a burial site, that person shall notify the local code enforcement officer by providing an affidavit and any other evidence of the location of the burial site.

[1991, c. 412, §2 (new).]

B. Upon receipt of proper notification, the code enforcement officer shall issue a stop-work order to the person or entity responsible for the activity that threatens to disturb the burial site.

[1991, c. 412, §2 (new).]

C. Before the construction activity may continue, the excavator or person who owns the land shall notify the Director of the Maine Historic Preservation Commission and the president of any local historical society of the probable location of the burial site. The excavator or the person who owns the land shall also arrange, at that person's own expense, for appropriate investigation to determine the existence and location of graves.

[1991, c. 412, §2 (new).]

D. When the investigation is complete, if no human remains are discovered, the person responsible for the investigation shall notify the code enforcement officer of the results and the code enforcement officer shall revoke the stop-work order if satisfied that the investigation is complete and accurate.

[1991, c. 412, §2 (new).]

E. If a burial site is discovered, excavation or construction may not continue except in accordance with subsection 1 and other applicable provisions of state law.

[1991, c. 412, §2 (new).]

[1991, c. 412, §2 (new).]

3. Application. This section applies only to burial sites and graveyards containing the bodies of humans.

[1991, c. 412, §2 (new).]

PL 1991, Ch. 412, §2 (NEW).

§1372. Inventories of cemeteries or burial grounds

A municipality or, in the case of unorganized territory, a county may contract with a cemetery association or historical society to undertake, complete and keep current an inventory of cemeteries and burial grounds located in that municipality or county. [1987, c. 326, § 1 (new).]

PL 1987, Ch. 326, §1 (NEW).

§1373. Authority to maintain

A municipality may authorize any cemetery association or historical society to maintain any cemetery or burial ground owned, maintained or operated by the municipality. [1987, c. 326, § 1 (new).]

PL 1987, Ch. 326, §1 (NEW).

Subchapter 6: USE OF UNOCCUPIED INTERMENT SPACES (HEADING: PL 1987, c. 579 (new))

§1381. Use of unoccupied interment spaces

If a cemetery lot, or portion of a cemetery lot, has not been used for interment purposes for 75 consecutive years and if the record owner of the lot has failed to provide for the care and maintenance of the lot for 75 consecutive years, then up to 1/2 of these unoccupied

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interment spaces within the lot may be used by the person, association, corporation or municipality which owns, maintains and operates the cemetery. If a portion of the interment spaces is occupied, the spaces on either side may not be used under this section. [1987, c. 579 (new).]

PL 1987, Ch. 579, § (NEW).

§1382. Notice of use

Unoccupied interment spaces may not be used under section 1381 unless after the 75-year period the person, association, corporation or municipality which owns, maintains and operates the cemetery gives notice declaring that the unoccupied interment spaces within the lot may be used. [1987, c. 579 (new).]

PL 1987, Ch. 579, § (NEW).

§1383. Form of notice

1. **Contents.** The notice of use shall state that the cemetery lot, or portion of the lot, containing the unoccupied interment spaces has not been used for interment purposes for 75 consecutive years and that the record owner has failed to provide for the care and maintenance of the lot for 75 consecutive years.

[1987, c. 579 (new).]

2. **Time limit.** The notice of use shall also state that use of the unoccupied spaces may begin one year from the time of serving the notice, unless the record owner or the record owner's heirs:

A. Deliver to the person, association, corporation or municipality having ownership or management of the cemetery written notice claiming ownership of or right to sepulture in the unoccupied interment spaces; and

[1987, c. 579 (new).]

B. Pay for the permanent care and maintenance of the cemetery lot, or portion of the lot, containing the unoccupied interment spaces.

[1987, c. 579 (new).]

[1987, c. 579 (new).]

PL 1987, Ch. 579, § (NEW).

§1384. Service of notice

The person, association, corporation or municipality having ownership or management of a cemetery shall choose that method of notice most reasonably anticipated to be effective. Personal service on the record owner in the same way service of process is made in accordance with Maine Rules of Civil Procedure shall be the preferred method. If that is not reasonably possible, personal service in the same manner shall be considered on the heirs or devisees. If that is not reasonably possible, the notice shall be served by delivery by certified mail, return receipt requested, to the record owner at the owner's last known address. If the record owner is deceased or his whereabouts are unknown, the notice shall be served by delivery by certified mail, return receipt requested, to the heirs or devisees of the record owner, to their last known address. If the address of the record owner or heirs or devisees of the record owner cannot be ascertained, then notice of the forfeiture shall be given by one publication in the official newspaper of the county in which the cemetery is located. In addition, the notice shall be recorded in the registry of deeds in the county where the cemetery lot is located. [1987, c. 579 (new).]

PL 1987, Ch. 579, § (NEW).

§1385. Resale of unoccupied interment spaces

A person, association, corporation or municipality having ownership or management of a cemetery, and which has acquired the right to use unoccupied interment spaces under section 1381, may sell the unoccupied interment spaces and convey the rights to those spaces. The proceeds from the sale of the unoccupied interment spaces shall be applied solely to the cemetery permanent care and improvement fund for the permanent care and maintenance of the cemetery lot containing the unoccupied interment spaces sold. [1987, c. 579 (new).]

PL 1987, Ch. 579, § (NEW).

§1386. Applicability

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This subchapter does not apply to any cemetery lot containing interment spaces for which permanent care and maintenance has been provided. [1987, c. 579 (new).]

This subchapter does not apply to any cemetery of less than 1/2 of an acre. [1987, c. 579 (new).]

PL 1987, Ch. 579, § (NEW).



Town of Wiscasset

MEMORANDUM

To: Board of Selectmen
Fr: Town Manager
Re: Cemetery Ad-Hoc Committee
Dt: December 21, 2012

At the Selectmen's meeting of December 18, 2012 the Board agreed to develop an ad-hoc Cemetery Committee to review some outstanding items. I have developed some general guidelines and tasks for the Board of Selectmen to consider.

General Guidelines:

The ad-hoc Cemetery Committee will need to perform some research, mapping and data base development work. With this in mind they will need to be a "working" committee rather than a "policy" committee. The committee will be developing a database and therefore will need some computer skills. One of our staff, Becky Applin, will be able to assist the committee with much of the background necessary to complete their work; however because of her other job responsibilities I want to be on the watch for unintentional work assignments from the committee to Becky.

Tasks:

- Review the records of the Jackson Cemetery – The cemetery was given to the Town without proper records; therefore no lots are currently for sale. There is an individual interested in purchasing a lot, but Town staff are unsure whether there are any available lots.
- Update the mapping for the Greenlawn Cemetery. This includes:
 - New Section
 - Old Section
 - Crematory Park
- Update the mapping for the Woodland Cemetery.
- Create a database from the excel spreadsheet created by Jane Tucker.
- Review the last draft of the cemetery rules and regulations for any amendments.
- Educate the public and plot owners regarding the regulations.

2013 Selectmen Goals

- ✓ Replace the Fire Station Building
 - Replace aging fire equipment
- ✓ Review and prepare for planned growth impacts along Route 1
- ✓ ✓ ✓ Minimize the impact of the budget on Town taxpayer
 - Outsource services
- ✓ ✓ ✓ ✓ Adopt a fund balance policy

(the purpose of the policy is to establish a target level of available “savings” to create a healthy financial foundation)
- ✓ ✓ ✓ Reduce the Town’s outstanding accounts receivable

(ambulance, sewer, taxes)
- ✓ ✓ ✓ ✓ Create public emails for the Selectmen
- ✓ Create a contingency fund each year as part of the Capital Improvement budget for unexpected capital needs
- ✓ Track the needed tax dollars from special revenue departments over time
(Airport, Ambulance, Recreation, Wastewater, Transfer)
- ✓ ✓ Check the Comprehensive Plan goals against public expectations
 - Review the need for a business license registration
 - Set up a system for Committee reporting to the Board of Selectmen
 - Adopt a historic preservation ordinance to protect the village
- ✓ ✓ Create additional downtown parking to support businesses, waterfront activities, and public events.
- ✓ ✓ ✓ Liquidate unneeded town owned properties and tax acquired parcels
- ✓ Actively market available commercial properties to businesses
- ✓ Attract more volunteers for Town Committees and events
- ✓ ✓ ✓ ✓ ✓ Create an annual Town Event (like Damariscotta pumpkinfest)
- ✓ ✓ ✓ ✓ ✓ Develop the Montsweag Brook Parcel into a recreation area
- ✓ Develop a schedule for replacement of equipment and vehicles as we replace them through the Capital Improvement Program.
- ✓ Develop a thorough list of Wastewater Capital needs and financing plan.

LEASE

This LEASE is made this 18th day of December 2012 by and between the TOWN OF WISCASSET, MAINE, a municipality located in Lincoln County, Maine ("Landlord"), and PEREGRINE TURBINE TECHNOLOGIES, LLC of Wiscasset, Maine ("Tenant").

WITNESSETH:

1. PREMISES LEASED. Landlord does hereby lease to Tenant and Tenant does hereby lease from Landlord Suites C and D of the Wiscasset Airport Terminal Building, 96 Chewonki Neck Road, Wiscasset, Maine (the "Premises"). Tenant shall have the use of three parking spaces in the main lot. Additional parking for visitors and others is available in the long-term lot.

2. PURPOSE. Unless Landlord agrees otherwise in writing, the Premises shall be used only for general professional services.

3. TERM. Provided Tenant meets its obligations under this Lease, the term of this Lease shall be from January 1, 2013 to December 31, 2013.

4. RENT. Tenant covenants and agrees to pay a rent of \$800.00 per month plus the cost of electrical service and usage. Rent shall be paid in advance, and a late fee of \$25.00 shall incur for each month it is not.

5. UTILITIES. Tenant shall reimburse Landlord for electricity used by the terminal building (Central Maine Power account 514-021-4836-017) in an amount that exceeds 1,000 kWh per month. Landlord will invoice the Tenant on a quarterly basis and will provide copies of the CMP statements.

6. MAINTENANCE BY TENANT. Tenant shall at all times keep the Premises and all fixtures, equipment and apparatus in good working order, condition and repair, damage by casualty excepted. If Tenant refuses or neglects to maintain or repair the Premises or any fixtures, equipment or apparatus to the reasonable satisfaction of Landlord as soon as reasonably possible after written request from Landlord, Landlord may make such repairs and Tenant shall reimburse Landlord for the costs of making such repairs upon presentation of bills therefor.

7. SURRENDER OF PREMISES. At expiration of the Lease, Tenant shall surrender the Premises in the same condition as the Premises were upon commencement of the Lease, reasonable wear and tear excepted, and damage by casualty excepted. Tenant's obligation to observe and perform this covenant shall survive the expiration or termination of the Lease and is not limited by Landlord's retention of the security deposit as provided in paragraph 5 of this Lease.

8. INSURANCE

- a. Tenant. At all times during the term of this Lease, Tenant shall purchase and keep in full force and effect, at its own expense, comprehensive general liability

insurance, insuring at least the substantive areas of liability and monetary limits of the Maine Tort Claims Act. Tenant shall also maintain casualty insurance for Tenant's personal property. Tenant shall also maintain workers compensation insurance, if applicable.

b. Landlord. The Landlord shall maintain casualty insurance on the Premises.

9. DEFAULT. In the event Landlord or Tenant defaults under this Lease, the other party shall have the available legal and equitable remedies.

10. INDEMNIFICATION. Tenant hereby acknowledges that Landlord shall have no responsibility for damage to Tenant's personal property. Landlord does not waive any of the immunities provided by the Maine Tort Claims Act or any other applicable law.

11. ALTERATIONS. Tenant shall make no alteration to the Premises without the express written consent of Landlord.

12. COMPLIANCE WITH LAWS. Tenant shall obtain any required permits and shall comply with all federal, state and local laws, ordinances, rules and regulations.

13. HAZARDOUS MATERIALS. Tenant shall have no hazardous materials or wastes on the Premises without the express written consent of Landlord.

14. ASSIGNMENT. This Lease may not be assigned by the Tenant.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date first above written.

WITNESS

TOWN OF WISCASSET, MAINE

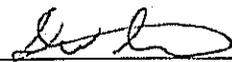
By: _____

Laurie Smith
Its Town Manager, Duly Authorized

WITNESS

PEREGRINE TURBINE TECHNOLOGIES, LLC

 _____

By:  _____

Print name: DAVID STAFF

Its: CEO, Duly Authorized

MEMORANDUM

From: Airport Manager

To: Town Manager

Date: January 16, 2013

Subject: Hangar Land Lease Transfer

William R. Jackson originally purchased his hangar (#5) in November 2000, at which time he entered into a land lease agreement with the Town and has paid an annual land lease as well as property taxes.

On October 5, 2012, Jackson sold his hangar to Chuck L Kincer, who is now requesting the Town transfer the land lease to him. This is a standard practice that we've used in the past. Per Item 13 of the original lease, the Town (Lessor) must approve the transfer.

As airport manager I recommend approving this transfer under the same terms and conditions as the original lease.



Ervin Deck
Airport Manager

Attachments:

Bill of Sale, Jackson to Kincer dated October 5, 2012
Original Lease Agreement, dated November 14, 2000
Board of Selectman Approval Form

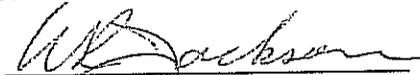
cc: Chuck L. Kincer

WISCASSET MUNICIPAL AIRPORT
WISCASSET, MAINE

LAND LEASE REASSIGNMENT

I, W.R. Jackson, hereby assign this lease, dated November 14, 2000, for aircraft hangar lot #5, to Charles L. Kincer, 14 Church Street, Richmond, ME 04357.

Date: 10/25/, 2012


W. R. Jackson

We agree to this assignment.

Date: _____, 2012

Inhabitants of the Municipality of Wiscasset

By: _____
Pam Dunning, Chair

By: _____
Ed Polewarczyk, Vice Chair

By: _____
Judy Colby

By: _____
Bill Curtis

By: _____
Jefferson Slack

QUITCLAIM BILL OF SALE

KNOW ALL BY THESE PRESENTS that WILLIAM RICHARD JACKSON, JR. a/k/a W.R. JACKSON, JR., of Yarmouth, Maine (the "Seller"), for good and valuable consideration given by CHARLES L. KINCER, an individual with a mailing address of 14 Church Street, Richmond, Maine 04357 (the "Buyer"), the receipt thereof is hereby acknowledged, does hereby RELEASE, TRANSFER and DELIVER unto the Buyer, his heirs, successor and assigns, in "as is" condition:

- a. The structure and other improvements for aircraft storage commonly known as "Hangar #5" located at the Wiscasset Municipal Airport in Wiscasset, Maine;

and

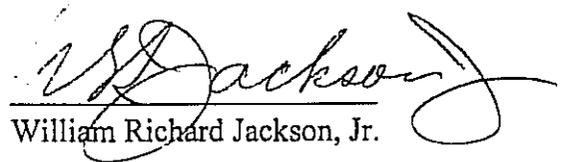
- b. One (1) one thousand (1,000) gallon propane tank identified as Serial No: 669383, being located on, in or near Hangar #5.

Seller sells and transfers said chattels "as is" to Buyer with no warranties express or implied as to merchantability, fitness for any particular purpose or otherwise, except Seller states that he does own the chattels and has the right to sell and transfer the same.

IN WITNESS WHEREOF, I, William Richard Jackson, Jr., being the said Seller, have set my hand and seal this 5 day of October, 2012.

Signed, Sealed and Delivered

in the Presence of:



William Richard Jackson, Jr.

LEASE

This Lease is made this 14TH day of NOVEMBER, 2000,

WHEREAS the Inhabitants of the Municipality of Wiscasset, a body corporate located at Wiscasset, Lincoln County, Maine (hereinafter, Lessor) owns and operates a municipal airport situated in Wiscasset, Maine; and

WHEREAS Kenneth R. Boudin, Jr. of Wiscasset, Lincoln County, Maine (hereinafter, Lessee) wishes to construct 5 buildings for aircraft storage at the Lessor's airport with the intent of selling, not leasing, 4 of these buildings and assigning to the purchaser the Lease which applies to the sold building (Lessee shall retain one building for his own personal use); and

WHEREAS Lessee understands that the Lessor's airport is operated by Wiscasset and that Lessee is not to use any of the buildings he constructs in any manner other than that which is stipulated in this Lease; and

WHEREAS the Lessee will not provide aeronautical services to the public, is not a Fixed Based Operator, and will not use any of the buildings in any manner that competes with Wiscasset's Fixed Base Operator.

NOW, THEREFORE, Lessor, in consideration of the Buildings to be constructed and the covenants to be undertaken by the Lessee, does hereby lease, demise and let unto the Lessee the following:

A certain lot or area of land located at the Wiscasset Municipal Airport in Wiscasset, Maine, the exact dimensions and location of which are known to the Lessor and the Lessee and which are set forth in Exhibit A attached hereto and made a part hereof. On this lot Lessee shall construct Building # 5 which will have a footprint of 36 ' x 42 '. As used below in this Lease the word "Building" shall refer to this structure.

It is mutually understood and agreed upon by the Lessor and the Lessee that:

1. This Lease shall run for a period of 20 years and then will be renewed 9 times for 5 year periods each time for a total of 65 years from the date set forth above.

2. Lessee shall construct and may alter, at Lessee's own expense, the Building in question on the leased land in which Lessee can park and store Lessee's aircraft. The design and location of this Building, the materials to be employed in its construction or alteration, and the times at which or during which this Building shall be constructed or altered, shall only be as the Lessor shall preapprove, and the Lessee shall strictly comply with the specifications which the Lessor has approved.

3. The Lessee shall pay to the Town of Wiscasset a yearly rental for the leased land of \$0.12 per Square Foot for each of the first 5 years of this Lease. At the beginning of each remaining five year period, the lease payment will be adjusted upward based on the corresponding increase in the Consumer Price Index (CPI) for the Wiscasset area since the last lease rate adjustment. In no case will a single adjustment exceed five percent. This charge shall be due and payable no later than 30 days from the date on which Lessor bills the Lessee for it.

4. The Lessee shall, at Lessee's own expense, keep the Building neat, in good repair and in a safe condition. Lessor shall have the right, at any time, to direct the Lessee to make repairs or alterations to the Building; in this event, Lessor shall specify the repairs or alterations to be made, the materials to be used in making the repairs or alterations, and the time in which the repairs or alterations must be made, and the Lessee shall comply with these specifications. Lessor shall also have the right to direct the Lessee to do anything which is necessary in the Lessor's opinion to keep the outside of the Building neat and attractive. Any repairs, alterations or work done to or on the Building at the Lessor's direction shall be done at the Lessee's own expense.

5. The Lessor shall have the right to inspect the Building at all reasonable times.

6. Lessee shall allow no liens, mortgages or other encumbrances to attach to the Building without the Lessor's prior approval.

7. Only an aircraft registered to the Lessee (and/or Lessee's spouse or child if Lessee is a natural person) may be parked or stored at any time in the Building. Other aircraft may be parked or stored in this Building only with the prior approval of Lessor and upon any terms which Lessor may impose.

8. Lessee shall be responsible for paying, when due, all utilities servicing the Building.

9. Lessee shall be taxed on the Building and shall pay these taxes within 60 days of the date they become due and payable. If a court of competent jurisdiction determine that a tax on the Building is inapplicable, then the Lessee agrees to pay to the Lessor, in addition to any other charges hereunder, a yearly rental fee in an amount equal to what the tax on the Building would have been in that year had the tax been applicable. This fee shall be due and payable within 60 days of the date that the tax, if applicable, would have been due and payable.

10. Lessee shall have no tie-down fees associated with the location of this Lease.

11. The Lessee shall comply with all lawful rules and regulations of the Wiscasset Airport and of Wiscasset's Fixed Base Operator.

12. The Lessee shall hold the Lessor harmless from all claims of whatever nature for damage to persons or property in, on or from the Building. Also, the Lessee shall take out and maintain in full force owner's, landlord's and tenant's liability insurance covering claims for personal injury and death to the extent of \$400,000.00 and covering claims for damage to property to the extent of \$25,000.00. Lessor shall have the right to increase these coverage limits up to the liability limits under the Maine Court Claims Act (14 MRSA 8101 et seq.) as the same may be amended from time to time. The Lessor shall have the right to demand proof at any time that these policies are in full force and effect.

13. The Lessee may assign this Lease only with the Lessor's written approval.

14. At the termination of this Lease (whether at the expiration of the term, by mutual consent of Lessor and Lessee, upon eviction of the Lessee, or otherwise) the Building and all fixtures located in and on it shall become the sole and exclusive property of the Lessor.

15. If the Lessee is a corporation, then Lessee shall file each year with the Town of Wiscasset a statement under oath containing the names and addresses of the officers and directors. If the Lessee is a partnership or other voluntary association, then Lessee shall file each year with the Town of Wiscasset the names and addresses of all persons having a financial interest in this Lease.

16. Failure on the part of the Lessor to complain of any action or non-action on the part of the Lessee shall not be deemed to be a waiver by the Lessor of any rights under this Lease.

17. The Lessor shall, in all matters respecting this Lease, be represented by the Wiscasset Selectmen or their designee. Also, should the Lessor give leases to other persons to construct buildings at the Wiscasset Airport, these other leases need not contain any of the provisions contained in this Lease, and may contain provisions not included in this Lease.

18. In the event that the Building or an approved replacement Building is not on the leased land for eighteen consecutive months (whether because of failure to construct the original Building, or because of destruction of the original Building and failure to construct a replacement Building, or otherwise), this Lease shall automatically terminate at the end of the eighteen month period and the Lessee shall have no further claim to the premises.

19. The Lessor may enter to view and to expel the Lessee if the Lessee fails to make any payment provided for in this Lease when due, if the Lessee makes or suffers any strip or waste of the premises or the Building, if the Lessee fails to quit and surrender the premises to the Lessor at the end of the term, or if the Lessee violates any of the covenants of this Lease. Upon eviction of the Lessee, the Building shall become the sole and exclusive property of the Lessor.

20. The Lessee shall quit and deliver up the Building to the Lessor or its attorney, peaceably and quietly, at the end of the term, in good order and condition. Also, at the termination of this Lease the Lessee shall deliver to the Lessor any keys to the Building which the Lessee might possess.

All the covenants and agreements in this Lease shall extend to, and be obligatory upon, the parties hereto and their heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease in duplicate.

Inhabitants of the Municipality of Wiscasset

Susan M. Varney BY Benjamin Rines, Jr.
Witness Benjamin Rines, Jr. First Selectman

Susan M. Varney BY Joan C. Barnes
Witness Joan Barnes, Second Selectman

Susan M. Varney BY Roy Barnes
Witness Roy Barnes, Third Selectman

Dabbie Boudette Kenneth R. Boudin, Jr.
Witness Lessee

ASSIGNMENT

I, Kenneth R. Boudin, Jr., hereby assign this Lease to
W.R. JACKSON, JR. (DICK) 55 BURBANK LANE
YARMOUTH, ME 04096

Dated: 7/17/01 Kenneth R. Boudin, Jr.
Kenneth R. Boudin, Jr.

We agree to this assignment.

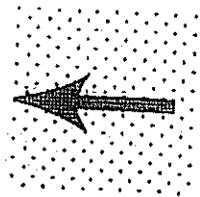
Dated: July 17, 2001

Inhabitants of the Municipality of Wiscasset

BY Benjamin Rines, Jr.
First Selectman

BY Judy S. Flanagan
Second Selectman

BY Roy E. Barnes
Third Selectman



MAINE COAST RAILROAD

EXHIBIT A

7-17-48
AUTOMOBILE
PARKING

CHEMONKI
NECK

ROTATING BEACON

ASSOCIATION

FUEL TANKS

TAXIWAY A

TAXIWAY B

BEARING N54°17' E (TRUE)

