

Town of Hampton

APPROVED: _____



TRUSTEES OF THE TRUST FUNDS

Regular Meeting, Tuesday, October 22, 2002, 4 P.M.
Selectmen's Meeting Room, Town Office Building
Posted (by A.M.): TOB (10/17), Beach Fire Sta. (10/18)

PRESENT: "Vic" Lessard, Chairman; "Jack" Kelley, Clerk; Glyn Eastman, Bkpr. (4:07 P.M.).
Also: Art Moody, Administrative Coordinator; from Banknorth Investment Management Group: John O'Dowd, V.P. & Account Administrator; and Robert Magan, Investment Officer & Portfolio Manager.
Audience: Bonnie Searle (Selectman)

From 4-4:15 P.M. and from 5:13-5:25 P.M., Town Manager James Barrington appeared re the Radkay mortgage and the problems with ABN AMRO Mortgage Group, Inc., Jacksonville, FL, the successor of the mortgage-servicer that the BOS contracted with about 18 years ago to handle Town-mortgage payments. Chairman Lessard had met with Mr. Barrington about that mortgage and the new Town Counsel had failed to reach any responsible party in Florida. Mr. Radkay wants to pay off the lien on his land. Mr. Moody had run a total for the 36 months of principal and interest payments that ABN AMRO says is overdue as of Sep. 5: \$8,091.39 principal and \$6,561.33 interest; the monthly combined payment is \$407.02 with different amounts each month credited to P&I. The company has refused give give a payoff figure to Radkay as they, without authority, had paid thousands of dollars for overdue property taxes (to the Town) and to insure the property -- including instances on both the building (not under Town mortgage) and the land. They want reimbursement before they accept mortgage payments. The board wanted Mr. Moody to give the Manager the data for contact with ABN AMRO, and he did. At the end of the meeting, the Manager returned and reported on his phone contact with a male in Investor Accounting (the Town is investor No. R12 at ABN AMRO) including a discussion on the unauthorized tax and insurance payments; the company has a negative escrow balance on the Radkay account of about \$35,000, including the \$15,059.74 due on the loan as of the Oct. 5 payment date. Mr. Barrington will check with Town Counsel re paying off the mortgage loan directly to the Trustees, as Mr. Moody's figures on overdue P&I, as well as the total principal unpaid (\$21,918.41), were verified by the ABN AMRO contact. Mr. Moody also mentioned the fact that the name on the property had been changed from one party to another company name with the same postal address some years ago; in order to draft any payoff discharge of mortgage, he would have to know what name to put on it since it now is different than on the note supporting the recorded mortgage lien. Business from 4:15 P.M. to 5:13 P.M.: The bank reps gave their report on the Real Estate Trust Fund plus the economy and its outlook (a packet of documents was handed out to each from Mr. Magan). Discussion ensued re Bob Preston's July 15 suggestion to the BOS to use the principal fund of the RETF for large Town projects by borrowing from the Trustees. Mr. O'Dowd agreed that their contract requires a fee under the fee structure from interest earned from Trustee investments which a town bond would be. Also, Trustees' policy limits securities to 5 years or less in maturity whereas Mr. Preston's proposal calls for bonds of 15 years for payoff. The 3-year contract with the bank limits any security to a maximum of \$1M face value, and does not allow for State or Town investments as their interest rates are lower since the bank or company loaning those funds does not, by law, have to pay a Federal
Winnacunnnet Road, Hampton, New Hampshire 03842 Tel. 603-926-6766 Fax 603-926-6853 (con't

2. Trustees of the Trust Funds, October 22, 2002 (con't.)

income tax on those tax-exempt bonds and notes. Mr. Moody mentioned that the outstanding Town-bonded debt listed in the packet provided by Mr. Preston to the BOS have interest rates lower than the Trustees earned on investments -- by 2 or 3 percentage points -- in the years of bond issue from 1975 to present. The 30-year sewer interceptor/secondary-treatment plant one of 1975 is being paid by the Feds (75%), the State (20%) and the Town (5%), as he recalls, and the \$5M landfill cover as well as all the recent sewer/plant bonds are from State revolving loan funds with the State paying 20% each year (the Town votes/appropriates for the full amount of the bond in the issuing year). None of these outside payments would be forthcoming if the bond is sold to the Trustees (unless special State legislation/appropriations are passed in Concord). And no matter what interest is paid by the Town to the RETF each year, it has to be appropriated in the budget each year. Not only does the Town pay it to the Trustees but all of it does not get returned as RETF revenue to the Town to reduce the tax rate since the bank managing the RETF gets a percentage of interest received on RETF investments, which are in Federal Government or Federal-backed safe securities (and not in the stock market). Thus, the amount appropriated for interest and the amount returned for revenue would not offset each other and the tax rate would be impacted upward. The "other" aspect of such a borrowing was not covered in the July proposal: while the RETF is being used by the Town, that amount is not available to earn true revenue to reduce the tax rate. The Trustees can garner a higher rate of return on those millions than the Town has to pay on its tax-exempt bonds in the marketplace. There is a net LOSS to the taxpayers, as demonstrated previously when this matter surfaced several times (the last being 1997 with a new BOS). Mr. Moody said that when he was a Trustee, the BOS wanted to borrow up to \$18M for 1-year TANS during a high-interest-rate period (before semi-annual tax payments). The nearly \$11M in the RETF was making 3-4 points (meaning whole percentage points) more than the Town had to pay. The Trustees demonstrated to the BOS that there would be a net loss of some \$200,000 to the tax rate -- not counting the loss in principal by selling the 3-5 year securities before maturity in a rising interest-rate period (in order to free up the funds for the Town). The Trustees did, however, advance some annual revenue 6 weeks early (which, in itself, did lose some Town net revenue). Discussion continued and Mrs. Searle offered comments and later handed out a 2-page calculation detailing losses in net revenue via "the Town borrowing from itself." In July, the Chairman had asked the BOS to set up a study committee (including the 3 Trustees) on the Preston proposal. None was and now a State Representative has reserved a 2003 Legislative Bill Number (with text due in Dec.) without a vote of the BOS or Town Meeting to change the Hampton RETF statute. The last legislation on this was via a vote of Town Meeting (1982) requesting such of the "legislative delegation." Nor has any party pushing this change appeared, or written the Trustees who are the fiducially responsible parties under law for the investments in the trust funds, and are the only parties who can be sued for that responsibility (that's why they have to be bonded). The Chairman will soon appear before the BOS with the Trustees' adamant opposition to "tinkering" with the RETF. The Trustees already have the authority to buy municipal securities; a Town Meeting vote ordering the Trustees to invest in any particular security is in conflict with trust-fund laws that place that responsibility with the elected Trustees and within certain parameters of a "prudent person." Mr. Eastman, especially, is completely opposed to this preemptive move and will do all in his power to leave the RETF statute alone. Mr. Eastman moved, seconded by Mr. Kelley, for the Chairman to ask Mr. Moody to provide him with a list of what the RETF has provided the Town each year since the beginning. SO VOTED: 3-0-0. After Mr. O'Dowd provided the documentation supporting the 3Q02 bank management fee for the RETF, Mr. Eastman moved, seconded by Mr. Kelley, to authorize payment of \$3,134.96 from the Income Account of the RETF. SO VOTED: 3-0-0. Mr. O'Dowd signed the Board's Voucher, and the Chairman signed the bank's fee-request letter. The Board will hold off on proposing the retention of some of the annual RETF interest to add to the Principal Account (to maintain monetary value re inflation).

(con't.)

3. Trustees of the Trust Funds, October 22, 2002

Minutes of July 16, 2002: Mr. Kelley moved, **seconded** by Mr. Eastman, to approve the minutes as printed. SO VOTED: 3-0-0.

A.C. Report: Mr. Moody's brief report included the amount due the RETF as of this date from the Town's sales of leased land and interest in land: \$849K, by year's end. Also, of the more than 100 Town-financed mortgages (re leased land only), after five being paid off in the past two weeks, the number **outstanding** is now only six.

Mr. Kelley moved, seconded by Mr. Eastman, that the meeting be adjourned. SO VOTED: 3-0-0. The Chairman adjourned the meeting at 5:25 P.M. -- to meet at the call of the Chairman.



A.J. Moody/Admin. Coordinator

Standard distribution:

- 1 ea. Trustee & A.C. (file)
- 1 to TOB (BOS/TM)



TOWN OF HAMPTON, NEW HAMPSHIRE 03842

TOWN HALL, 100 Winnacunnet Road

From the Office of: BOARD OF TRUSTEES OF THE TRUST FUNDS

PUBLIC MEETING

TUESDAY, OCTOBER 22, 2002

4 P.M.

SELECTMEN'S MEETING ROOM, TOB

AGENDA: ° MEET WITH REPS OF BANKNORTH FINANCIAL INVESTMENT GROUP
ON THE REAL ESTATE TRUST FUND

° REVIEW MINUTES OF JULY 16, 2002

° REPORT OF ADMIN. COORDINATOR

° MATTERS THAT MAY BE BROUGHT UP BY A TRUSTEE

POSTED - 10/18 - TOB
BCH. FIRE STA.