



**NEW HAMPSHIRE MUNICIPAL ASSOCIATION**

# **Conservation Fund Best Practices**

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&

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# Our Presenters



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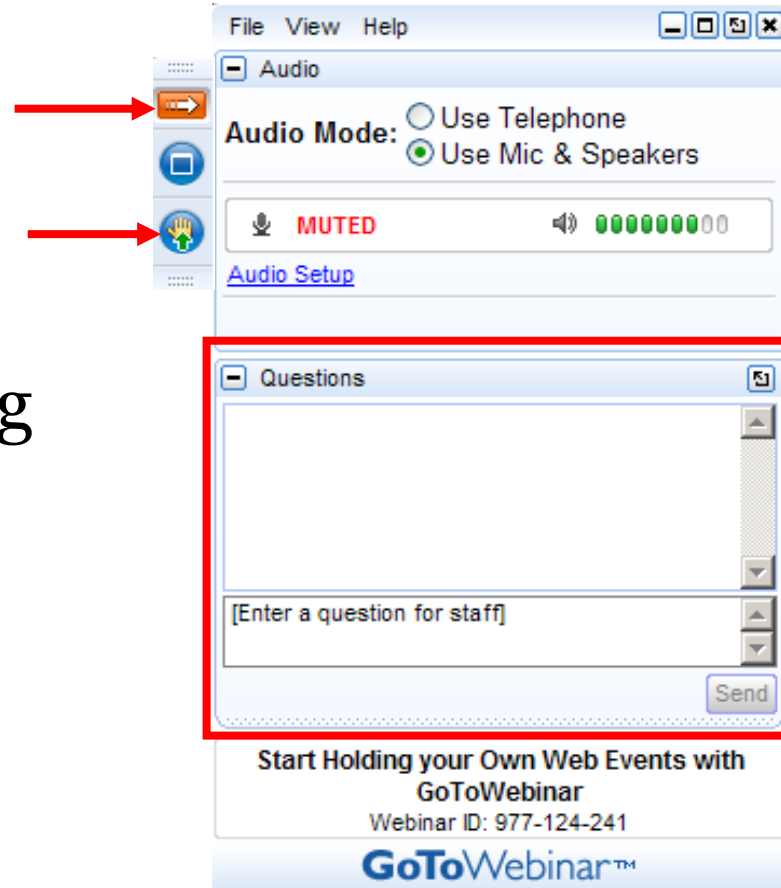


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# How to Participate Today

- Open and close your Panel
- Submit text questions
- Q&A addressed during the presentation
- Couple of poll questions for your entertainment



# *Creation of Conservation Fund*

- ✓ A Conservation Commission is established by a vote of the legislative body (e.g. town meeting, town council, city council).  
RSA 36-A:2
- ✓ The Conservation Fund is usually established at the same time the commission is formed through the same warrant article.
- ✓ It could be argued that voting to adopt RSA Chapter 36-A automatically creates the conservation fund.
- ✓ Check with town counsel if this is unclear and consider a separate vote by the legislative body to create the Conservation Fund.



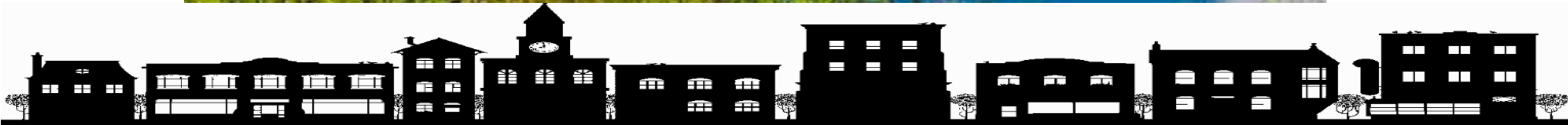
# APPROPRIATIONS FOR CONSERVATION PURPOSES

A town or city, having established a conservation commission as authorized by RSA 36-A:2, may appropriate money as deemed necessary for the purpose of this chapter. *The whole or any part of money so appropriated in any year and any gifts of money received pursuant to RSA 36-A:4 may be placed in a conservation fund and allowed to accumulate from year to year. RSA 36-A:5*



# RECEIPT OF GIFTS BY CONSERVATION COMMISSION

Said commission may receive gifts of money, personal property, real property, and water rights, either within or outside the boundaries of the municipality, by gift, grant, bequest, or devise, ***subject to the approval of the local governing body***, such gifts to be managed and controlled by the commission for the purposes of this section.





***Gifts*** = *inter vivos* donation of money, personal property, real property, and water rights.

***Bequest*** = gift of personal property (cash or other assets) by an estate.

***Devise*** = gift of real property by an estate.



# The Intent of the Donor

The most important element in trust administration.

Intent is found in the gift instrument: Will, trust, letter, or other document signed by the original donor.

Than intent could be expressed in the motion accepting the gift.







# ? QUIZ TIME



**At the March 1965 town meeting, how many New Hampshire municipalities established conservation commissions?**

1. 5
2. 8
3. 12
4. 18
5. 22



# Privately Donated Assets are Classified as:

- ✓ Unrestricted (totally expendable)
- ✓ Temporarily or Time Restricted
- ✓ Permanently Restricted





When the Conservation Commission accepts a private gift, bequest, donation, etc., a contract is formed between the municipality and the donor which is legally binding upon the municipality.



Unless the donor specifies otherwise in the gift instrument, the purpose of the gift or trust may not be altered, changed, or extinguished by the municipality nor by a relative, friend, or descendant of the donor. To do so would constitute a breach of contract.



# MANNER OF GIFT ACCEPTANCE

- ✓ At public meeting of Commission.
- ✓ Comply with Right-to-Know Law.
- ✓ Motion in minutes detailing purpose stating any restrictions.



# REPORTING DUTIES



“It shall keep accurate records of its meetings and actions and shall file an annual report which shall be printed in the annual town or municipal report.”

RSA 36-A:2



# The Land Use Change Tax: RSA 79-A:7

- ✓ Land Use Change Tax (LUCT) equals 10% of the full of the property determined as of the actual date of the change in land use.
- ✓ LUCT income is for the use of the town or city.  
RSA 79-A:25, I



# LUCT Deposit into Conservation Fund: RSA 79-A:25, II

- ✓ Town meeting votes by warrant article to place:
  - All received LUCT income
  - A specified portion of the LUCT income
  - A specified amount of the LUCT income
  - A combination of a percentage and amount
  - Revenues deposited at time of collection
- ✓ Once adopted by town meeting goes into effect on April 1<sup>st</sup> following the date of the meeting







# ? QUIZ TIME



# According to a 2014 economic study, what is the return on investment in land conservation in New Hampshire?

1. \$11 for every \$1 invested
2. \$200 for every \$1 invested
3. \$1.55 for every \$1 invested
4. \$5 for every 1 invested
5. \$20 for every \$1 invested



# Land Use Change Tax Fund: RSA 79-A:25-a

- ✓ Town Meeting votes under RSA 79-A:25-b to create Land Use Change Tax Fund
- ✓ All LUCT income first accounted for into the Land Use Change Tax Fund
- ✓ Any percentage or amount going to Conservation Fund is then transferred after deposit into the Land Use Change Tax Fund
- ✓ Balance in Land Use Change Tax Fund:
  - Is not general fund revenue until Town Meeting can appropriate the balance for any permitted public purpose
  - Any funds received during the prior fiscal not appropriated by the following Town Meeting is then recognized as general fund revenue for the current fiscal year



# Custody and Disbursement of Conservation Funds

- ✓ Town treasurer has custody of all moneys in the conservation fund.
  - ✓ Funds disbursed only upon order of the Conservation Commission.
  - ✓ Disbursement authorized by a majority of the Conservation Commission at a public meeting.
  - ✓ Funds to be used for the purchase of any interest in real property must be preceded by Conservation Commission public hearing and then approved by the governing body.
- RSA 36-A:5, II



# EXPENDITURES

- ✓ Expend funds to manage and control conservation land.
- ✓ For the proper utilization and protection of the natural resources and for the protection of watershed resources of said city or town.
- ✓ Conduct researches into its local land and water areas and shall seek to coordinate the activities of unofficial bodies organized for similar purposes,
- ✓ Advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its work.



## EXPENDITURES (CONT.)

- ✓ Keep an index of all open space and natural, aesthetic or ecological areas within the city or town, as the case may be, with the plan of obtaining information pertinent to proper utilization of such areas, including lands owned by the state or lands owned by a town or city.
- ✓ It shall keep an index of all marshlands, swamps and all other wet lands in a like manner and may recommend to the city council or selectmen or to the department of natural and cultural resources a program for the protection, development or better utilization of all such areas.







**PROD.**

**COMING ATTRACTIONS**

**January 9**

**2019 Legislative Preview**

**VENUE**

[www.nhmunicipal.org](http://www.nhmunicipal.org)







**PROD.**

**COMING ATTRACTIONS**

**January 23**

**Municipal Trustees Training 101**

**VENUE**

[www.nhmunicipal.org](http://www.nhmunicipal.org)







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## Mission Statement

The New Hampshire Municipal Association is a nonprofit, non-partisan association working to strengthen New Hampshire cities and towns and their ability to serve the public as a member-funded, member-governed and member-driven association since 1941. We serve as a resource for information, education and legal services. NHMA is a strong, clear voice advocating for New Hampshire municipal interests.

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