

Lunenburg Trust Fund Commission Meeting 10/9/25

Chairman Bowen called the meeting to order at 5pm

Members of the Trust Fund Commission recited the Pledge of Allegiance.

Chairman Bowen read the meeting notice as posted in advance of the meeting.

No public present. No public online.

No public comments from the Commission

Due to Holidays in November and December, the meeting schedule will be adjusted as necessary. Exact dates to be determined at a future meeting.

Treasurer and Director finance reports - none presented.

Chairman Bowen suggested that people watch the last meeting (September 11, 2025) with Bartholomew & Co on how funds are managed.

Chairman Bown read a letter regarding an "Investigative Review by the Lunenburg Board of Commissioners of Trust Funds".

Good evening residents of Lunenburg.

As stewards of the charitable and public-purpose funds entrusted to our town, the Lunenburg Board of Commissioners of Trust Funds has undertaken a thorough and thoughtful investigation into the scope of our responsibilities, particularly as they relate to gifts, bequests, real estate, scholarships, and historical assets. Our goal is to ensure that we are acting in full compliance with Massachusetts law, donor intent, and municipal ethics standards, while maintaining transparency and accountability.

Real Estate Gifts and Sales

We began by examining the legal implications of real estate gifted to the town for specific public purposes. We asked:

- If the town cannot fulfill the donor's intended use and elects to sell the property, must the proceeds be redirected under the cy pres doctrine?
- Should those funds be placed in a separate trust fund and used for a similar purpose?

- Does the Board of Trust Fund Commissioners control the proceeds from such sales?

Our findings confirm that when a public-purpose gift cannot be fulfilled, the town must seek a *cy pres* ruling from the court to redirect the proceeds in a way that aligns as closely as possible with the donor's original intent. The funds should be placed in a dedicated trust fund, and the Trust Fund Commissioners may manage those funds if no other entity is designated.

Scholarship Funds

We explored the management of scholarship gifts, asking:

- Are all scholarships managed by the Trust Fund Commissioners by default?
- If a donor does not designate a school district or scholarship committee, do we assume responsibility for appropriation?
- In the absence of a scholarship committee, does the authority to distribute funds fall to us?
- Are we responsible for enforcing the donor's declaration or approving scholarship distribution?
- Do we authorize appropriations for scholarships established outside of Chapter 60, Section 3C?

The law indicates that the Trust Fund Commissioners manage scholarship funds only when designated by the donor or town. If no scholarship committee exists and no other entity is named, we may assume responsibility. However, scholarships under Chapter 60, Section 3C are typically managed by a separate committee, not by our board.

Cemetery Funds

We reviewed our role in managing cemetery-related funds, asking:

- Does the Cemetery Commission have full control over funds under Chapter 114, Sections 15 and 25?
- Must appropriations be approved by the Trust Fund Commissioners?

We found that the Cemetery Commission has statutory authority over perpetual care and related funds. The Trust Fund Commissioners do not have jurisdiction unless the donor or town explicitly assigns us that role.

Conservation and Historical Assets

We investigated our responsibilities regarding conservation land and historical property, asking:

- Are we responsible for Conservation land gifted to the town?
- If historical property is gifted and later liquidated by the Historical Commission, do the proceeds fall under our authority?
- Is the Lunenburg Historical Society a municipal entity?

Our review confirms that conservation land is managed by the Conservation Commission, and historical property is overseen by the Historical Commission. The Lunenburg Historical Society is a private nonprofit, not a municipal body. Proceeds from the sale of historical property do not automatically fall under our control unless designated by the donor or town.

Fundraising and Nonprofit Creation

We asked whether the Trust Fund Commissioners are allowed to:

- Solicit donations.
- Create nonprofit organizations to distribute funds under our care.

Massachusetts law does not authorize us to form nonprofits, and soliciting donations must be done cautiously, in compliance with state ethics laws. We may accept gifts and manage them, but we are not a fundraising entity unless formally empowered by the town.

Engaging the Cy Pres Doctrine

Finally, we examined the process for engaging a cy pres filing, particularly in cases involving:

- Real estate sales.
- Scholarship funds.
- Gifts or bequests where the original purpose cannot be fulfilled.

We confirmed that the process involves:

1. Determining that the original purpose is impossible or impracticable.
2. Filing a petition with the Probate or Equity Court.
3. Notifying interested parties.
4. Receiving a court ruling.
5. Managing the redirected funds in accordance with that ruling.

Conclusion

These inquiries reflect our commitment to legal integrity, donor respect, and public trust. We have attempted to work with town counsel and other municipal bodies to clarify our role and ensure that all gifts and bequests are managed in accordance with the law and our inquiries have not been received well by this administration. We recognize what our duties are as stewards over these funds and particularly when there is a financial need in town to help our residents we want to be sure we acquire all monies and appropriate as much of this money back to the residents of the community and to the needs of the town and fully comply with the wishes of those who have generously contributed to the future of Lunenburg.

Thank you for your attention and continued support.

To educate the Public audience and Mr Howard, Chairman Bowen read some of the results of research he conducted into the treatment of land gifted to municipalities. The conclusion of these case law decisions are highlighted below:

The Public Promise of Land – When a Gift Becomes a Trust

(Drawing lessons from *Carroll v. Select Board of Norwell*, 493 Mass. 178 (2024), and *Cohen v. Lynn*, 33 Mass. App. Ct. 271 (1992))

Introduction

Ladies and gentlemen,

When a town accepts land — whether by gift, bequest, or vote of its people — it does more than gain an asset. It accepts a public obligation. That land is not merely owned; it is held in trust for the specific purpose for which it was given.

This obligation is at the heart of Massachusetts law — and it was reaffirmed powerfully by the Supreme Judicial Court this year in *Carroll v. Select Board of Norwell* (2024), and decades earlier in *Cohen v. Lynn* (1992).

A Promise Made, a Promise to Keep

In *Cohen v. Lynn*, the city had sold a small parcel of land that, in 1893, had been conveyed “to its own use and behoof forever for park purposes.” The court ruled that this created a public charitable trust, binding upon the city and its successors.

The court declared:

*“The conveyances of 1893, stating that the land was to be used ‘forever for park purposes,’ created a public charitable trust. The acceptance of those deeds by the city constituted a

contract between the donors and the donee which must be observed and enforced.”*

In other words, when public land is accepted for a charitable or specific use, the municipality becomes a trustee, not an owner in fee. It cannot later treat that land as a mere surplus asset.

The court went further:

“A city’s obligations under a public charitable trust cannot be impaired legislatively. The special act authorizing the sale could neither impair the trust obligation nor ratify the conveyance.”

This principle — that public trust land cannot be diverted or sold without proper authority — carries forward directly to the Supreme Judicial Court’s modern interpretation in *Carroll v. Norwell*.

The Norwell Case: When Dedication Becomes Restriction

In *Carroll v. Select Board of Norwell*, two citizens sought to compel their select board to transfer the “Wildcat land” — a six-acre parcel — to the Conservation Commission for open space and recreation.

The land had been acquired by tax foreclosure in 1989, but over the next two decades, the town repeatedly designated it for affordable housing:

- A 2004 Town Meeting vote explicitly authorized the board “to make the parcel available for the development of affordable housing.”
- In 2007, the town established a Community Housing Trust under G.L. c. 44, § 55C, to further that purpose.
- Town housing production plans from 2013 and 2019 both listed the Wildcat parcel as an identified housing site.

Then, in 2021, citizens petitioned under Article 26 to transfer the land to the Conservation Commission. The motion passed by a two-thirds vote. Yet, the Select Board declined to transfer custody, stating that it had not determined the land was “no longer needed” for its existing purpose of affordable housing.

That decision led to litigation — and to the Supreme Judicial Court’s reaffirmation of the restrictive nature of land held for a specific public purpose.

The Court’s Holding: Intent Creates Obligation

The SJC held that the Wildcat land was indeed held for a specific municipal purpose — affordable housing — and therefore could not be diverted to another use without following the strict process required by G.L. c. 40, § 15A.

The court explained:

“Under § 15A, once land is held for a specific municipal purpose, it cannot be diverted to another inconsistent public use until the board or officer having charge of it determines that it is no longer needed for that purpose, and the town votes by a two-thirds majority to transfer custody for another specific purpose.”

The plaintiffs argued that the two-thirds vote alone should suffice. The SJC disagreed, emphasizing that two steps are mandatory — both a board determination and a town meeting vote. The court reaffirmed that the land’s dedicated purpose must be respected unless the proper process is followed.

In the words of the opinion:

“Whether land is held for a specific municipal purpose depends on the totality of the circumstances and the clear and unequivocal intent of the town to hold it for that purpose.”

And in Norwell’s case, that intent was unmistakable.

The Broader Principle: Land Held in Trust for the Public

What unites Cohen v. Lynn and Carroll v. Norwell is a single legal and ethical truth: land given, acquired, or dedicated for a specific public use creates a trust — not an option.

In Cohen, that trust arose from the words “forever for park purposes.”

In Carroll, it arose from a clear pattern of official actions dedicating land to housing.

In both, the courts refused to allow repurposing or transfer until the proper procedures — or judicial relief under doctrines like *cy pres* — were met.

As the SJC noted, this approach aligns with the prior public use doctrine and Article 97 of the Massachusetts Constitution, which protect public land from diversion without express authority.

The Lesson for Towns and Trustees

These rulings serve as a vital reminder to every city, select board, and public official in the Commonwealth:

- Land accepted for a specific purpose is not free land. It carries a perpetual condition of use — a public trust that binds future boards.
- Municipal votes or convenience cannot dissolve that trust. Only a proper legal process — such as a determination under § 15A or judicial approval under *cy pres* — can change it.
- Public stewardship is a legal duty. A town holds land not as a commercial actor, but as a guardian of the donor’s and the public’s intent.

Or as the court said long ago and repeated in spirit here:

*“The firmly settled and frequently declared policy of the Commonwealth has been to

preserve public parks [and public-use lands] free from intrusion of every kind which would interfere with their complete use for this public end.”*

The Enduring Promise

So when we speak of land that has been gifted or dedicated to a town, let us remember: Those words in a deed — “for park purposes,” “for housing,” “for public enjoyment” — are not mere suggestions. They are promises written into law, enforceable as public charitable trusts.

When a town accepts such a gift, it accepts a solemn duty. It must protect that land, use it only as the donor intended, and, if change is ever necessary, seek proper authority before doing so.

A gift of land to the public is not just property — it is a covenant.
And in Massachusetts, as both Cohen and Carroll affirm, that covenant endures.

Thank you.

Another important case was an earlier case “Cohen v Lynn” which also addressed the enduring gift of land gifts.

The Enduring Obligation of Public Gifts – Lessons from Cohen v. Lynn (1992)

Ladies and gentlemen,

When land is conveyed to a town or city — whether by gift, bequest, or deed — it carries not only value in property, but an enduring moral and legal obligation. The Massachusetts Appeals Court reminded us of this in the landmark case of Cohen v. Lynn.

In that case, the City of Lynn had sold a small parcel of land to a private developer. But that land had been originally conveyed in 1893, with the deeds declaring that it was to be held by the city “to its own use and behoof forever for park purposes.” Nearly a century later, the city called the parcel “no longer usable for park purposes” and authorized its sale for private development.

A group of concerned citizens — twenty-four residents and taxpayers — challenged that sale. They brought what’s known as a “ten taxpayers’ action” under G.L. c. 214, § 3(10), a statute that allows citizens to enforce the purpose of any gift or conveyance accepted by a municipality “for a specific purpose or purposes in trust or otherwise.”

The court held — and I quote —

“The conveyances of 1893, stating that the land was to be used ‘forever for park purposes,’ created a public charitable trust. The acceptance of those deeds by the city constituted a contract between the donors and the donee which must be observed and enforced.”

In other words, when a city accepts a gift of land for a public purpose, it does not acquire full, unfettered ownership. It becomes a trustee, bound to uphold the intent of the donor and to preserve the property for the public use designated.

The city argued that the trust was no longer practical — that the land was too small, too isolated, and that its use as a park was “impracticable.” But the court rejected this claim, finding that the parcel was still used by walkers, riders, and joggers, and “provided a scenic vista of open space suitable for park purposes.” The judge, after viewing the site personally, described it as possessing “a beautiful scenic ocean view” and forming “a green edge to the parkway.”

These findings led the court to rule that it had not become impossible or impracticable to carry out the trust’s purpose. The doctrine of cy pres, which allows modification of charitable trusts only when their purpose truly cannot be fulfilled, did not apply.

The court also addressed an important point about consideration — whether the trust could exist if the city paid part of the purchase price. The answer was clear:

“The receipt of some consideration does not bar the creation of a public charitable trust.”

The donors themselves had contributed funds to the public subscription, reaffirming their intent that the land be “secured for public enjoyment forever.”

Most significantly, the court condemned the idea that special legislation could ratify the sale after the fact. It held that:

“A city’s obligations under a public charitable trust cannot be impaired legislatively. The special act authorizing the sale could neither impair the trust obligation nor ratify the conveyance.”

And in words that every public official should remember, the court quoted an earlier decision:

“The firmly settled and frequently declared policy of the Commonwealth has been to preserve public parks free from intrusion of every kind which would interfere in any degree with their complete use for this public end. It cannot be assumed that this policy is to be lightly thrown aside.”

Thus, the Appeals Court affirmed judgment for the citizens. The conveyance to the developer was declared null and void, and the city was ordered to restore the parcel to its prior park condition.

The lessons from *Cohen v. Lynn* are enduring:

- Property conveyed to a municipality for a public purpose — such as a park, library, or green — becomes a public charitable trust.
- Once accepted, that trust creates a contractual obligation that binds the city and its successors.
- Neither convenience, development pressure, nor legislative authorization can release a municipality from that trust.
- As long as the public purpose remains possible, it must be upheld.

In short, when towns receive real estate “for park purposes,” or for any other charitable or civic use, they hold it not as owners but as guardians. These are not mere parcels to be traded or repurposed. They are promises — gifts to the public, given in trust — and that trust must be honored.

The Cohen v. Lynn decision is more than a legal precedent; it is a reminder of stewardship — that public land dedicated to the people must remain for the people. When a deed says “forever,” the law means it.

Thank you.

The third case Chairman Bowen read involved Woodward v Quincy.

Speech: The Lessons of Woodward v. Quincy — Fiduciary Duty and the Sale of Trust Property

Good evening, everyone.

Today, I’d like to speak about an important case that bridges the worlds of education, philanthropy, and public accountability — The Woodward School for Girls, Inc. v. City of Quincy, decided by the Massachusetts Supreme Judicial Court in 2014.

This case arose from a remarkable legacy — a trust established in 1822 by former President John Adams, later expanded by his grandson, to support the education of young women in Quincy. For nearly two centuries, the City of Quincy served as trustee of that charitable trust. Yet over time, a fundamental question came before the courts: Did the City fulfill its fiduciary duties in managing the trust’s property and investments — especially its real estate?

The Heart of the Dispute: Mismanagement and Real Estate Sales

The Woodward School, as the sole income beneficiary of the Adams trust, brought a claim alleging that the City had failed to act prudently in managing the trust’s assets.

Among the most serious accusations was the mishandling of trust real estate. The City had sold certain parcels of trust-owned property, but the School contended these transactions were made without adequate prudence or financial foresight — that the City:

- Did not properly appraise or assess the long-term value of the properties;
- Sold them under market conditions unfavorable to the trust; and
- Failed to reinvest the proceeds in a way that preserved or enhanced the value of the trust's principal.

The sale of trust real estate lies at the core of a trustee's duty of prudence. Real estate held by a charitable trust is not just an asset — it is part of a living legacy. The trustee must ensure that when property is sold, the transaction advances the charitable purpose, protects the trust corpus, and reflects sound judgment informed by market conditions and fiduciary responsibility.

The Court's View: Prudence Requires Vision

In its decision, the Massachusetts Supreme Judicial Court emphasized the Prudent Investor Rule, codified in the Massachusetts General Laws, Chapter 203C.

Under this rule, trustees must manage assets — including real estate — not in isolation, but as part of a comprehensive investment strategy that considers:

- Risk and return objectives suited to the trust;
- The needs of the income beneficiary; and
- The long-term preservation of the principal.

The Court recognized that even though the Woodward trust had only an income beneficiary, the City was still obligated to protect the principal against inflation and maintain its capacity to generate income in perpetuity.

The problem with the City's management — including its sale of real estate — was that it reflected short-term thinking and a failure to plan for future growth. Selling property without reinvesting in assets capable of appreciation meant the trust's corpus steadily lost value over time.

The Court viewed this not merely as a poor decision but as a breach of fiduciary duty — a failure to act with the prudence, diligence, and foresight that the law demands of every trustee.

Why the Real Estate Issue Mattered

The sale of trust property was emblematic of a larger issue: the City's misunderstanding of its role as trustee.

The City acted less like a fiduciary and more like a municipal manager — treating the trust as a set of accounts, rather than a living endowment with an enduring charitable mission.

When a trustee sells real estate, it must ask:

- Will this sale serve the trust's purpose in the long term?
- Are we ensuring the proceeds are reinvested prudently?
- Have we obtained professional advice, independent valuations, and exercised due care?

In this case, the Court found that the City failed on several of these fronts. Its actions were not aligned with the Prudent Investor Act's vision of a balanced, forward-looking approach.

A Broader Lesson: Trusteeship and Accountability

The Woodward case reminds us that trusteeship is an act of stewardship, not convenience. Selling trust real estate is not simply a financial transaction — it is a decision that affects generations of beneficiaries and the integrity of a charitable purpose.

The Massachusetts Supreme Judicial Court made clear that municipal trustees are held to the same standards as private ones.

Sovereign immunity cannot shield a public entity from accountability when it acts as a fiduciary.

If a government chooses to hold charitable property, it must do so with the same prudence, care, and loyalty that the law demands of any private trustee.

Conclusion

In the end, the Court removed the City of Quincy as trustee, finding that it had breached its fiduciary duties, including through its imprudent management and sale of trust property. It ordered damages and prejudgment interest to make the School whole — and reaffirmed a principle as old as the Adams trust itself:

“To hold in trust is to hold in confidence — to manage not for oneself, but for the enduring good of others.”

The Woodward case thus stands as a cautionary tale and a guidepost.

Whether a trustee is a city, a corporation, or an individual, the duty is the same:

To act prudently, to plan for the future, and to ensure that every sale, every investment, every decision — honors the purpose and perpetuity of the trust.

Thank you.

Goals of the Commission

While much of the effort to date has been around organization, the Trust Fund Commission has not lost sight of a very important function of the commission - to distribute funds in accordance with the wishes and declaration of those who made these gifts to the Town. There was discussion regarding the application that people could submit to the Trust Fund Commission to request a distribution against available funds. Mr Howard made a motion to accept the proposed version as designed (pending review by Town Counsel), Chairman Bowen seconded.

Mr Howard (aye), Chairman Bowen (aye), motion passed unanimously. Chairman Bowen advised that previous requests were made with a letter submitted to the Trust Fund Commission. Some distributions were made from the Poor Fund, apparently one was worded as a loan but exact details on that agreement were not available.

Duties on the Chairman - Some of the issues the Trust Fund Commission must address require the ability of the Chairman to represent the interest of the Commission in handling investigations, Management and general administrative issues. Chairman Bowen requested permission to handle investigations only without a vote of the Trust Fund Commission, not for issues that require debate. Mr Howard made a motion to allow Chairman Bowen to continue investigative research and contact the appropriate State agencies without a vote of the Trust Fund Commission to authorize each activity. The Motion was seconded by Chairman Bowen. Vote for this motion was Mr Howard (aye), Chairman Bowen (aye). Motion passed unanimously.

Chairman Bowen advised the Public and Mr Howard that he would like to explore the option of engaging College interns through the "handshake" program. We would have an obligation to give feedback to the career centers. Chairman Bowne made the motion to "engage the town HR Department to establish a relationship for intern work through local colleges to assist in investigative research in regards to the Trust Funds commission". Mr Howard seconded the motion. Vote on the motion was Mr Howard (aye), Chairman Bowen (aye). Motion passed unanimously

Chairman Bowen requested that agenda item Risk Mgt policy be tabled for the meeting. Per Chairman Bowen, the proposed written policy needs amending.

Chairman Bowen put forward a motion to approve the meeting minutes of Aug 14, 2025, Aug 28, 2025 and Sept 11, 2025 put forward by Chairman Bowen, seconded by Mr. Howard. Vote on the Motion was Mr Howard (aye), Chairman Bowen (aye), Motion passed unanimously.

Follow up on investigations.

Investigations - American Legion - Mr Howard made a motion that Chairman Bowen can engage in discussions with the American Legion to discuss the disposition of the funds held within our Trust. Motion seconded by Chairman Bowne. Vote on the motion was Mr Hoawrd (aye), Chairman Bowen (aye) unanimous. Motion passed unanimously.

The next meeting of the Trust Fund Commission will be held on Oct. 23, 2025 at 5pm.

Public Comment: No comment from either in-person or on Zoom

Chairman Bowen commented that the Mass GOP is hosting a guest on Tuesday Oct 14th- RNC Joe Gruters at the American Legion Dedham and encouraged viewers to attend.

Motion to adjourn 6:31pm made by Chairman Bowen, motion second by Mr Howard. Vote on the Motion was Mr Howard (aye), Chairman Bowen (aye), Motion passed unanimously.