

ORDINANCE ESTABLISHING THE
HAPPY ACRES FARM RESTRICTED FUND

Whereas in December, 2014, the Town of Sherman accepted a bequest from the Estate of Anthony V. Hapanowich as a “restricted endowment fund”; and

Whereas, it is desirable to restrict said bequest in accordance with the conditions of the bequest and to provide for the management, investment and spending from the restricted fund:

Now Therefore, Be and it is hereby Ordained that:

1. There is hereby established a restricted fund to be known as the Happy Acres Farm Restricted Fund.

2. All proceeds from said bequest, and specifically including all remaining payments when due on the Town’s promissory note dated February 11, 2011 payable to Anthony Vincent Hapanowich, Trustee of the Anthony V. Hapanowich Revocable Trust, shall be deposited to and held in said restricted fund. All income or realized gain derived from such Fund shall become part of such Fund to be invested and expended as herein provided.

3. The proceeds from said bequest, including all income or realized gain derived therefrom, may be expended solely for:

the preservation and maintenance of the real estate and improvements conveyed to the Town of Sherman on February 11, 2011, known as Happy Acres Farm.

and subject to the following donor limitations:

- i) The Board of Selectmen may in their discretion make orders against the fund in the nature of expenditures for maintenance and repairs, each such order to be a separate expenditure in an amount not to exceed \$25,000.00;
- ii) Any separate expenditure from the fund in excess of \$25,000.00 for maintenance and repairs shall be made upon approval of such project/expense as submitted to the electorate at a Town Meeting or by Referendum.

*Notwithstanding such donor limitations, and specifically the provisions described in paragraph 3(i) above, no expenditure or commitment to make an expenditure shall be made from such Fund unless and until an appropriation for same shall have been first made by Town Meeting or by Referendum on recommendation of the Board of Selectmen.*¹

4. Notwithstanding the donor restriction described in Paragraph 3, a portion of the Fund assets may be used for the reasonable and proper expenses of the administration of the Fund. The Fund assets must be accounted for separately such that the principal, income and appreciation of assets of the Fund and expenditures from the Fund are identifiable to the Fund.

5. The provisions of the Uniform Prudent Management of Institutional Funds Act, Sections 45a-535a through 45a-535i of the Connecticut General Statutes, as amended, are incorporated herein by reference. In accordance with the requirements of said Act, the Board of Selectmen and the Town Treasurer shall at all times exercise the standard of care established by said Act in the establishment of an investment policy for the Fund assets and in the administration, management and investment of the Fund assets.

6. The Board of Selectmen shall establish, and may amend, an investment policy for the Fund. The objective of the investment policy shall be to insure that the Fund's assets will provide perpetual financial support for the preservation and maintenance of the real estate and improvements known as Happy Acres Farm for so long as the Town owns that property.

7. The Treasurer shall be responsible for the implementation of the Board's investment policy and for the day to day management of the Fund's investments. The Treasurer's responsibilities include, but are not limited to:

¹ No expenditure of Town funds may be made absent an appropriation made by Town Meeting. See Conn. Gen. Stat., § 7-121 and the Ordinance Concerning Procedures for Budgetary Appropriations and Transfers adopted by Town Meeting on December 10, 2010.

- a. Reviewing the investment policy at least annually and proposing revisions to the Board of Selectmen that he deems necessary to ensure long term preservation of the Fund's assets.
- b. Determining the Fund's anticipated annual expenditure needs (appropriations) and communicating that to the investment manager(s) so that cash or cash equivalents are available to meet such expenditures.
- c. Selecting and evaluating one or more qualified investment manager(s) as contemplated by the provisions of Paragraph 8 hereof. Selection of investment manager(s) shall be submitted to the full Board of Selectmen for approval.
- d. Communicating the expected responsibilities and duties to the investment manager(s).
- e. Communicating to the investment manager(s) any material changes that may affect how the Fund will be managed in the future.
- f. Monitoring and evaluating Fund performance, and assuring that investment policy guidelines are adhered to and objectives are met.
- g. Taking appropriate action to replace an investment manager(s) for failure to perform as expected. Such action shall be submitted to the full Board of Selectmen for approval.

Deleted:

8. The Treasurer may select one or more external investment manager(s) to manage the Fund assets. Subject to the investment policy established by the Board of Selectmen and the usual standards of fiduciary prudence and responsibility, the external investment managers will have discretion over the investment of the funds in their respective accounts. The Treasurer shall have discretion to allocate funds among managers, subject to the permitted ranges that may be set forth in the Selectmen's investment policy, and to hire and terminate managers for any reason at any time subject, however, to the requirements of Paragraph 7. The Treasurer may choose an independent investment consultant to provide services he may deem necessary or helpful, including without limitation advice with respect to asset allocation and manager evaluation.

13. Subject to applicable law and the limitations on expenditures set forth in Paragraph 3 above, the Board of Selectmen may accumulate or may recommend the appropriation of so much

of the income or principal of the Fund as it deems prudent. The Board shall consider the following eight factors, as set forth in Section 45a-535c(a) of the General Statutes, in making recommendation to appropriate from the Fund:

- (a) the preservation of Fund assets;
- (b) the purposes of the Fund in preserving and maintaining Happy Acres Farm;
- (c) general economic conditions;
- (d) the possible effect of inflation or deflation;
- (e) the expected future total return from income and the appreciation of investments within the Fund;
- (f) other resources of the Town to meet the proposed expenditure;
- (g) where appropriate and circumstances would otherwise warrant, alternatives to expenditure of the Fund, giving due consideration to the effect that such alternatives may have on the financial condition of the Town and its taxpayers; and
- (h) the Town's investment policy for the Fund.

14. Each appropriation from the Fund approved by Town Meeting or Referendum shall continue in force until the project or acquisition is completed or otherwise terminated. Any unexpended portion of such appropriation remaining after completion or termination of such project or acquisition shall revert to the Fund.

15. The Treasurer shall report annually on the condition and performance of the Fund to the Board of Selectmen and to the general public, and the information and data so reported shall be made part of the annual report of the Town. Such report shall include a statement describing beginning market value, fees, capital appreciation, income and ending market value, for each account held within the Fund portfolio as well as a report on the performance of the portfolio, including comparative returns for the funds and their respective benchmarks.

