

THE FOLLOWING MINUTES RE SUBJECT TO APPROVAL BY THE BOARD OF SELECTMEN

The Board of Selectmen held a regular meeting Monday, April 19, 2021. The meeting was held in the Council Chambers at the Newtown Municipal Center. First Selectman Rosenthal called the meeting to order at 7:33.m.

**PRESENT:** First Selectman Daniel C. Rosenthal, Selectman Maureen Crick Owen and Selectman Jeff Capeci (via google meets)

**ALSO PRESENT:** Pension Committee Chair Ellen Whalen, Vice Chair Sam Broomer, Investment Committee Chair Tom Snayd, Police Union Representative Paula Wickman, Joe Eppers and Charlie Farfaglia. Attending remotely: Finance Director Robert Tait, Actuary Dave Leonard, Devon Francis of Fiducient Advisors and one member of the press.

**VOTER COMMENTS:** none.

**ACCEPTANCE OF THE MINUTES:** Selectman Crick Owen moved to accept the regular meeting minutes of April 5, 2021. Selectman Capeci seconded. All in favor.

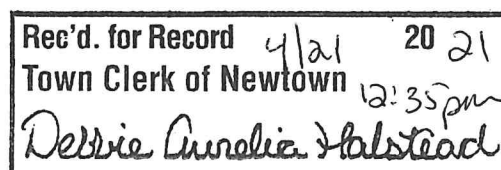
**COMMUNICATIONS:** none.

**FINANCE DIRECTORS REPORT:** none.

**NEW BUSINESS**

**Discussion and possible action:**

**1. Pension Committee Presentation and Recommendations:** Ellen Whalen introduced the Pension Committee, Devon Francis and Dave Leonard. They worked to update interest assumptions as well as the mortality table. Dave Leonard said the two main assumptions are what the fund will earn in the future; the source of money will come from the town as well as contributions from the employees. The rest will come from company earnings on the trust. The current assumption is 7%. The plan will pay out more than it takes in as more people retire. Mr. Leonard spoke about changing to the Pub 10 Public Retirement Plans Mortality Table, which is the standard used for municipal plans and options chosen by the employee when retiring. First Selectman Rosenthal wants more information, specifically on joint survivorship, on the impact of the plans funding position if changing the mortality table. Selectman Capeci asked amount the amount of employees due to retire. Mr. Leonard stated there are many employees that are eligible to retire at any time. The board will vote at the meeting of May 3 in order to give them more time to read the information and get more clarity, particularly the change in actuarial equivalence mortality definition. Devon Francis went over the history and performance (att.). Currently the portfolio is invested in passive strategies; there are no active managers, it is pure index replication. Fiducient recommended changes include managers which were approved by the Pension Committee. The asset allocation profile remains roughly the same between the current and proposed portfolios, with the proposed to include active management within a fund. A five year phase in for the actuarial assumptions was discussed. The board will read over all documents and vote at the next meeting. First Selectman Rosenthal credits the Pension Committee for managing the pension the correct way, without cutting corners and thanked the committee for their terrific work.



**2. 76 Boggs Hill Road Conservation Easement (20.20 acres):** First Selectman Rosenthal said that NFA received a \$300,000 appraisal on the 20.20 acres of land adjacent to Head O' Meadow School backing up to additional open space in the vicinity of Head O' Meadow Road/Shepard Hill Road. With funds left over from bonding for the preservation of Castle Hill Farm the Town will contribute \$100,000 at closing. The Legislative Council amended the original bond resolution to allow for additional open space. The Town will be granted a conservation easement over the property; the land is not to be developed. NFA has ownership interest; the Town has the right to block future development and has an interest in conservation. Selectman Crick Owen moved to approve the Declaration of Development Restrictions as presented (att.) and authorize payment of \$100,000 to NFA at closing. Selectman Capeci seconded. All in favor.

**3. Grant Assignment Certification – HART:** Selectman Crick Owen moved the Grant Assignment Certification acknowledging, assigning grant apportionment to HARTransit and also mov. Selectman Capeci seconded. All in favor.

**4. Appointments/Reappointments/Vacancies/Openings:** Selectman Crick Owen moved to appoint Nicole Camporeale (U) as an alternate to the Commission on Aging for a term to expire 1/6/23 and to appoint Cynthia Carraway, (D) to the Charter Communications Advisory Council for a term to expire 1/6/23. Selectman Capeci seconded. All in favor.

**5. Driveway Bond Release/Extension:** none.

**6. Tax Refunds:** Selectman Crick Owen moved to approve Tax Refund #17 in the amount of \$1,280.99. Selectman Capeci seconded. All in favor.

**VOTER COMMENTS:** none.

**ANNOUNCEMENTS:** The budget referendum will be held on April 27, 6am-8pm.

**EXECUTIVE SESSION:** Selectman Crick Owen moved to enter executive session to discuss legal matters relative to road work. Selectman Capeci seconded. All in favor. Executive session was entered into at 8:42pm and returned to regular session at 9:01 pm with no motion taken.

**ADJOURNMENT:** Having no further business the regular Board of Selectmen meeting was adjourned at 9:01p.m.

Att: Pension Committee minutes, 4/15/21; TON Pension Plans – General Employees and Police document; Fiducient presentation; Declaration of Development Restrictions re: 76 Boggs Hill Road;

Respectfully submitted,  
*Susan Marcinek, clerk*

**Town of Newtown  
Pension Committee Meeting  
April 15, 2021, 7:30pm  
Newtown Community Center – Multipurpose Room**

***THE FOLLOWING MINUTES ARE SUBJECT TO APPROVAL BY THE PENSION COMMITTEE.***

1. **Meeting called to order by Chairman Ellen Whalen at 7:31 pm.**  
Committee Members in attendance: Sam Broomer, Patrick Burke, Joe Eppers, Charles Farfaglia, Tom Snayd, Ellen Whalen and Paula Wickman. Absent: None
2. **Minutes**  
Mr. Burke motioned to approve the minutes of the February 18, 2021 meeting; Mr. Snayd seconded. All in favor and motion passes.  
The March 25, 2021 meeting cancelled.
3. **Correspondence**  
None
4. **Retirements/Expenses Payment Approval**  
**Expenses –**  
The TR Paul, Administrative Fee for QTE 3/31/21 and DiMeo Schneider, LLC (formerly FIA) QTE 3/31/21 Investment Advisory Fees submitted for approval.  
Mr. Broomer made a motion to approve the TR Paul expense as presented. Mr. Burke seconded. All in favor and motion passes.  
  
Mr. Broomer made a motion to approve the DiMeo Schneider, LLC expense as presented. Mr. Burke seconded. All in favor and motion passes.  
  
**Retirements**  
Ms. Wickman made a motion to approve the benefit payments for Joan Moreno and Edward Knapik as presented. Mr. Burke seconded.  
All in favor and motion passes.
5. **Old Business**  
**Documentation Review**  
Mrs. Whalen and the Committee reviewed the Final Copy of the Pension and OPEB IPS. The Committee approved the documents dated April 15, 2021. See Motion noted below. Also, the Committee discussed the proposed Motions relating to the changes in Interest Rate Assumptions for the Pension and OPEB Trusts, Actuarial Mortality Tables for Pension and OPEB and the Mortality Table change for Pension Benefit Calculations. The Committee will meet with the Board of Selectmen, Monday, April 19<sup>th</sup> to discuss approval of the IPS documents and recommended action items.  
See Motions that follow.  
  
Joe Eppers made a motion to approve the motions #1-7 recommending the following actions by the Board of Selectman, as Trustees for the Pension and Other Post-Employment Benefits (OPEB) Trust and Plans:
  1. Approve the Amended and Restated Pension and OPEB Investment Policy Statements dated April 15, 2021
  2. Approve Fiducient Advisors, formerly FIA and DiMeo Schneider, LLC, Recommended Pension and OPEB Trust Portfolio Restructure and Implementation Plan to be implemented as soon as practicable.
  3. Approve the revised and amended Comerica Trust Fee Schedule. The new fee schedule will be implemented upon initiation of the actual purchase and sales of the new Pension and OPEB portfolios.
  4. Approve Actuarial Interest Rate Assumption changes as follows:
    - a. Pension: Change from 7% to 6.5% effective for Plan/Fiscal Year 2021-2022 based on the recommendation of David Leonard, Actuary, TR Paul with five-year contribution phase-in period.
    - b. OPEB: Change from 6.75% to 6.5% effective for the Plan/Fiscal Year 2021-2022 based on the recommendation of Stephen Chykurida, Actuary, Hooker & Holcombe.
  5. Approve the Pub-10 Public Retirement Plans Mortality Table for the Pension Plans effective for the Plan/Year 2021-2022 Actuarial Valuation recommended by David Leonard, Actuary, TR Paul Inc
  6. Approve the Pub-10 Public Retirement Plans Mortality Table for the OPEB Plan effective for the Plan/Year 2021-2022 Actuarial Valuation recommended by Stephen Chykurida, Actuary, Hooker & Holcombe
  7. Approve the Actuarial Table used for Pension Benefit Calculations from the 1984 Unisex Pension Mortality Table to the 2020 Sec.417(e) Mortality Table effective July 1, 2021 based on the recommendation of David Leonard, Actuary, TR Paul IncMr. Broomer seconded. Motions #1-7 All in favor and motion passes.

6. **New Business**

**Pension/OPEB Trust Market Value and Return Update – March 31, 2021**

Pension Trust Market Value: \$59.7 million, YTD Return: 35.7%; QTD: 2.7%; OPEB Trust Market Value: 34.5%; QTD 2.4%

**Trust/Plan Change Recommendations Update**

Review of Plan Documents continues. Elected Officials Plan should be finalized for May meeting.

**TR Paul Revised Fee Schedule**

Mrs. Whalen discussed the Proposed TR Paul Fee Schedule effective January 1, 2021. The Fee will be updated and submitted for approval at the next meeting.

**CT Public Pension Forum Program**

Mrs. Whalen noted the CT Public Pension Forum Program will be held on April 20<sup>th</sup>, 2020. Any PC Member may attend.

**Election of Chair, Vice Chair, Investment Committee Chair**

Mrs. Whalen advised Committee Mr. Patrick Burke is resigning his positions of Vice Chairman and Investment Committee Chairman. Mrs. Whalen thanked Mr. Burke for his commitment and tremendous contribution to the Committee over this past 5 years. We will miss Mr. Burke. Mrs. Whalen noted Mr. Broomer expressed interest as Vice Chairman. and Mr. Snayd expressed interest as Investment Committee Chairman. The Committee wished Mr. Burke well.

The following Motions were made:

Ms. Wickman made a motion to elect Ellen Whalen as Chair of the Pension/OPEB Committee. Mr. Eppers seconded. All in favor and motion passes.

Mr. Burke made a motion to elect Sam Broomer as Vice Chair of the Pension/OPEB Committee. Mr. Farfaglia seconded. All in favor and motion passes.

Mr. Burke made a motion to elect Mr. Snayd as Investment Committee Chair of the Pension/OPEB Committee. Mr. Eppers seconded. All in favor and motion passes.

**Other**

None

7. **Voter Comment**

None

8. **Date of Next Meeting: Thursday, May 20, 2021 at 7:30pm**

Subject to COVID-10 Social Distancing Guidelines

9. **Adjourn**

With no further business, Ms. Wickman motioned to adjourn meeting, Mr. Farfaglia seconded, all in favor. Meeting adjourned at 9:24pm.

Respectfully submitted,  
Kiley Morrison Gottschalk, Clerk

**Attachments**

Pension Trust Report – March 31, 2021

OPEB Trust Report – March 31, 2021

Pension/OPEB Monthly Performance Flash Report- March 31, 2021

Investment Policy Statement – Defined Benefit and Money Purchase Plans Trust, Effective April 15, 2021

Investment Policy Statement – Other Post Employment Benefit Plan, Effective April 15, 2021

Comerica Revised Fee Schedule, Effective For Trust Restructure

TOWN OF NEWTOWN PENSION PLANS –  
GENERAL EMPLOYEES AND POLICE

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ACTUARY'S RECOMMENDATIONS TO PENSION BOARD

- OVERVIEW OF RECOMMENDED PENSION CHANGES

We are recommending a series of changes in order to bring the plan up to date given improvements in longevity and the current economic climate with respect to interest rates.

The goal of these changes is to help calculate realistic contribution rates for the Town that neither overfund nor underfund the plans, and to present optional benefit forms to participants that represent fair adjustments to account for survivor benefits to spouses and others.

- CHANGE IN VALUATION MORTALITY TABLE

We have been using up to date mortality tables with generational mortality projections, however in 2019 the Society of Actuaries developed new tables based specifically on the experience of municipal and public pension plans, called the Pub-10 Mortality Tables.

We feel that these tables should be considered the standard for municipal plan valuations, for both pension and OPEB. Your OPEB actuaries have also recommended these changes.

The impact on the 2021 recommended contribution is roughly an increase in the contribution of \$87,352, which is a 3.9% increase.

For the Town side, the increase is about 2 tenths of one percent of salary. It is larger, 1.6% of salary, for the Police because we have Uniformed Officer tables for the first time, which indicated greater mortality improvements than our prior generalized tables.

- CHANGE IN VALUATION INTEREST RATE

If a pension plan consistently fails to meet the assumed valuation interest rate, the contribution levels will increase more and more over time, pushing the cost of current liabilities on to future taxpayers.

At 7% and prior higher rates, the pension trust has not been able to meet the assumed rate in five out of the last 7 years.

Add to that the current investment environment and economy, and a plan nearing maturity, and you have a situation that requires a more conservative interest rate assumption. (When a plan “matures”, it means more is being paid out in benefits than is coming in as contributions. The need for liquidity leads to a more risk averse portfolio, which then points to a lower expected return).

The Pension Committee weighed changes to 6.75% and 6.5% and ultimately decided on taking on the full half-percent decrease. Accepted actuarial procedures allow for a five year phase in of a change of this nature and magnitude.

Because of the shrinking active population and other experience factors, for the 2021-22 fiscal year, the first year of the phase in will call for contributions roughly equal in dollar amount to the 2020-21 year.

The next four year are projected to produce annual increases of about \$134,000 in the contribution level, but these should be offset to some extent by further contraction in the plan population and hopefully potential gains from better trust asset performance and a lower benchmark yield.

#### - CHANGE IN ACTUARIAL EQUIVALENCE MORTALITY DEFINITION

Actuarial Equivalence is a plan definition that is used to calculate the adjustments in a retiring participant’s benefit if the retiree wants to select an optional form of benefit that covers both himself and his spouse, or sometimes a non-spouse beneficiary.

The mortality table in the plan, the UP-84, is a very old table that was based on experience data from the late 1960s. We are recommending a table called the 2020 Sec. 417(e) table, which was based on data from the early 2000s, with adjustments for observed mortality improvements since. (There are practical reasons as to why we are not using PUB-10 mortality for this purpose).

Using an old mortality table undervalues the earned benefits of the participant, and results in larger reductions when the benefits are converted to alternate forms.

For example, under the old table a 65 year old participant with a 62 year old spouse would experience a 21% decrease in benefit in order to provide that full pension payments upon his death. Using the 2020 table, the benefit adjustment is reduced to 14%. A \$1,000 basic benefit would pay \$792 under the old table as a Joint and 100% Survivor benefit, and \$864 using the 2020 table.

In addition to being fair and the “right thing to do”, making this change could protect the plan, and thus the Town, from lawsuits. Several different large plans have been successfully sued for using outdated tables; class action suits that required increases in benefits and even retroactive payments.





# Town of Newtown, CT

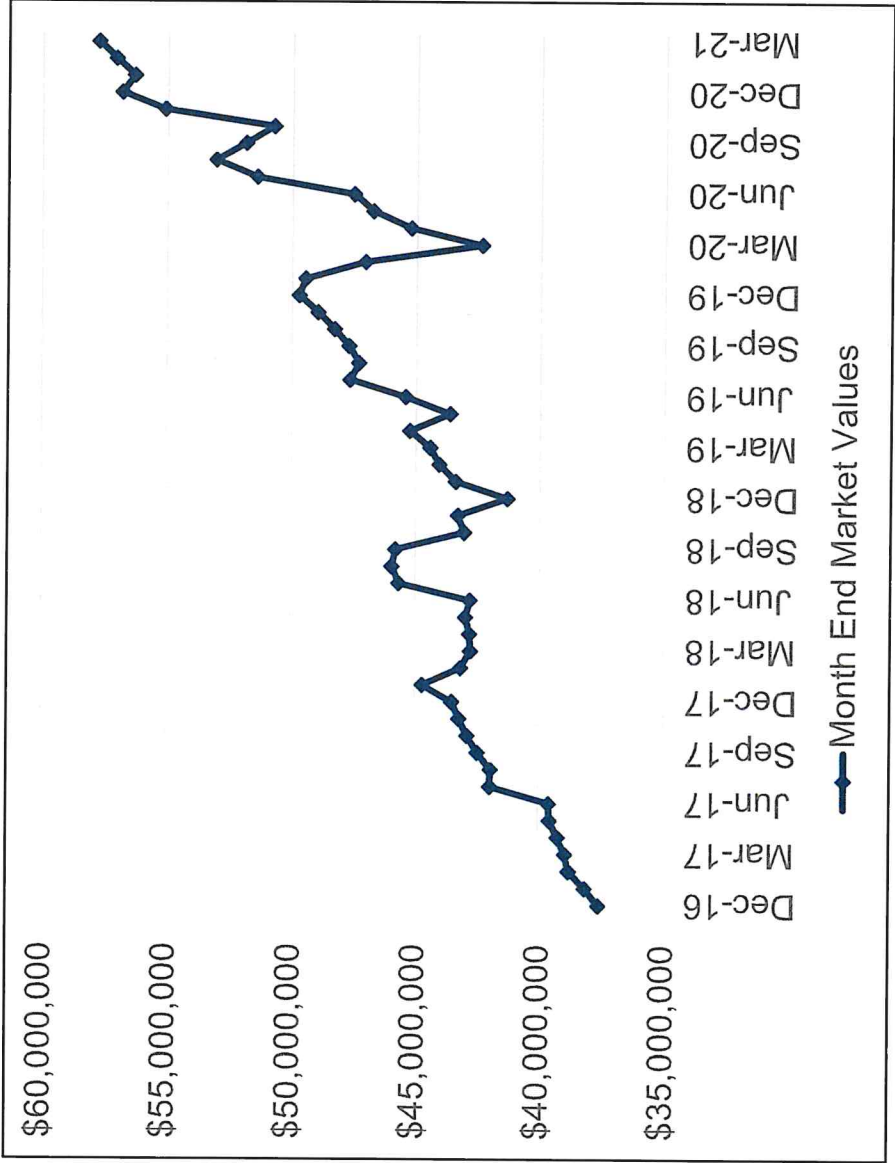
## Board of Selectmen Meeting – April 2021

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*Past performance does not indicate future performance and there is a possibility of a loss.*

# Town of Newtown, CT Pension Portfolio

## Market Value History



Month	Month End Market Value
April 2020	\$45,230,028
May 2020	\$46,753,320
June 2020	\$47,524,588
July 2020	\$51,406,641
August 2020	\$53,052,803
September 2020	\$51,857,419
October 2020	\$50,732,386
November 2020	\$55,103,591
December 2020	\$56,820,252
January 2021	\$56,329,860
February 2021	\$57,055,987
March 2021	\$57,756,767

DISCLOSURE: The balance information has been compiled solely by Fiducient Advisors and has not been independently verified. In preparing this report, Fiducient Advisors has relied upon information provided by the investment managers and by the custodian.



# Town of Newtown, CT

## Performance Update As Of March 31, 2021

### Portfolio Performance

	Value	Performance(%)							Inception Date
		1 Month	QTD	1 Year	3 Years	5 Years	10 Years	Since Inception	
Pension Plan	57,756,767	1.6	2.7	35.7	9.9	9.9	6.5	7.1	10/01/1999
Blended Benchmark		1.6	2.2	34.8	9.9	9.6	8.4	6.2	10/01/1999

### Calendar Year Performance

	2020	2019	2018	2017	2016	2015	2014
Pension Plan	14.0	19.7	-6.0	15.1	5.1	-0.3	5.9
Blended Benchmark	13.6	20.5	-6.2	14.9	6.7	1.0	7.7

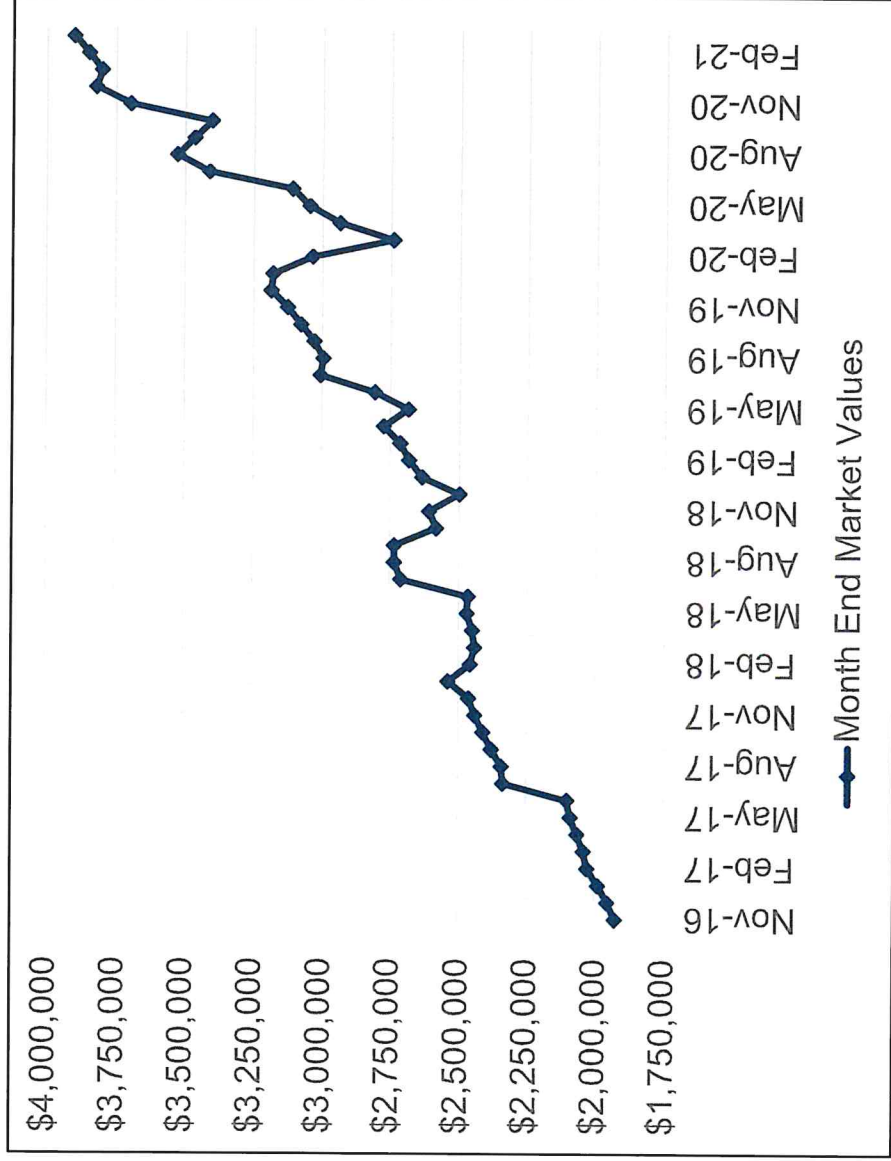
### Allocation Mandate

Aug-2017	Weight (%)
Bimbg. Barc. U.S. Aggregate Index	35.00
Russell 3000 Index	35.00
FTSE Developed ex US Spliced Index	30.00

The allocation mandate represents the current benchmark composition for the portfolio. Please keep in mind that the investment objective may have changed over time.

# Town of Newtown, CT OPEB Portfolio

## Market Value History



Month	Month End Market Value
April 2020	\$2,936,529
May 2020	\$3,046,259
June 2020	\$3,109,880
July 2020	\$3,411,381
August 2020	\$3,527,982
September 2020	\$3,464,940
October 2020	\$3,402,224
November 2020	\$3,697,842
December 2020	\$3,822,631
January 2021	\$3,801,346
February 2021	\$3,849,112
March 2021	\$3,902,690

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# Town of Newtown, CT

## Performance Update As Of March 31, 2021

### Portfolio Performance

	Value	Performance(%)							Inception Date
		1 Month	QTD	1 Year	3 Years	5 Years	10 Years	Since Inception	
OPEB Plan	3,902,690	1.4	2.4	34.5	9.4	9.5	6.4	6.3	05/01/2010
Blended Benchmark		1.6	2.2	34.8	9.9	9.6	8.4	8.7	05/01/2010

### Calendar Year Performance

	2020	2019	2018	2017	2016	2015	2014
OPEB Plan	13.1	19.3	-6.0	15.5	4.1	0.5	5.7
Blended Benchmark	13.6	20.5	-6.2	14.9	6.7	1.0	7.7

### Allocation Mandate

Aug-2017	Weight (%)
Bimbg. Barc. U.S. Aggregate Index	35.00
Russell 3000 Index	35.00
FTSE Developed ex US Spliced Index	30.00

The allocation mandate represents the current benchmark composition for the portfolio. Please keep in mind that the investment objective may have changed over time.



# Town of Newtown, CT Pension & OPEB Portfolios

## Current & Recommended Portfolios

Asset Class / Manager	Style	Current Target Allocation (%)	Current Annual Management Fees (%)	Proposed Target Allocation (%)	Proposed Annual Management Fees (%)
<b>Fixed Income</b>					
Vanguard Total Bond Market Index I	Core Bonds	35.0%	0.035%	35.0%	-
Metropolitan West Total Return Bond PL	Core Bonds	-	-	11.75%	0.38%
Baird Aggregate Bond I	Core Bonds	-	-	11.75%	0.30%
BlackRock Strategic Income Opportunities K	Unconstrained FI	-	-	8.0%	0.76%
PIMCO High Yield I	High Yield Bonds	-	-	3.5%	0.57%
<b>Domestic Equities</b>					
Vanguard Institutional Index I	Passive Large Core	35.0%	0.035%	35.0%	-
Vanguard Extended Market Index Adm	Passive SMID Core	25.0%	0.06%	-	-
Fidelity 500 Index	Passive Large Core	10.0%	-	25.0%	0.015%
Boston Partners Small Cap Value II I	Small Cap Value	-	-	5.0%	0.99%
Conestoga Small Cap	Small Cap Growth	-	-	5.0%	0.90%
<b>International Equities</b>					
Vanguard Developed Markets Index I	Passive Intl Developed	30.0%	0.05%	25.0%	-
Fidelity International Index	Passive Intl Developed	30.0%	-	-	0.035%
Aristotle International Equity I	Intl Developed	-	-	6.5%	0.80%
MFS Instl International Equity	Intl Developed	-	-	6.0%	0.70%
GQG Partners Emerging Markets Equity R	Intl Emerging Markets	-	-	6.5%	0.98%
<b>Real Assets</b>					
Principal Diversified Real Asset R6	Real Asset	0.0%	-	5.0%	0.78%
<b>Total Investment Portfolio</b>					
		100.0%	0.04%	100.0%	0.45%



## DECLARATION OF DEVELOPMENT RESTRICTIONS

The Declarant, **The Newtown Forest Association, Incorporated ("Grantor" and/or "NFA")** a Connecticut not-for-profit corporation, for the consideration of **One Hundred Thousand Dollars (\$100,000)** and other valuable consideration, does hereby establish Development Restriction upon the following described property in the Town of Newtown, County of Fairfield and State of Connecticut, hereafter called the "Conservation Area" for the benefit of the **Town of Newtown ("Grantee")**:

The parcel described on Schedule A, consisting of approximately twenty acres of unimproved property. The entire parcel shall be designated as the Conservation Area.

The Declarant agrees to include in any deed conveying said parcel a reference to this declaration of Development Restrictions, which shall run with the land.

The Conservation Area shall not be divided, subdivided or developed with permanent structures, except as permitted in this document.

### PURPOSE AND RESTRICTIONS:

It is the purpose of the Development Restriction to ensure that the Conservation Area remains in its natural and open condition, and to prevent any activity or use of the Conservation Area that is inconsistent with that condition or that will significantly impair or interfere with the ecological, conservation or open space values of the Conservation Area.

The Development Restrictions shall include the following limitations of the use of land within the Conservation Area: no topsoil, sand, gravel, rocks or minerals may be removed, and no natural or existing watercourses or drainage may be altered without the written permission of the Grantee or its Agent. The purpose of the Development Restriction is to maintain the Conservation Area in its natural condition and to prevent its development and use, except for educational and recreational uses the scope and extent of which are consistent with the purpose of the Development Restriction.

### PERMITTED USES:

The owner of the land restricted by the Development Restriction can continue to use the Conservation Area for all purposes not inconsistent with this restriction, including recreational and educational uses including related structures that shall be designed to minimize the extent of disturbance and any negative environmental impacts. Grantor reserves the right to selectively cut or clear vegetation for habitat protection, unpaved trail maintenance, the preservation of existing vistas, the removal of invasive species and

dead or diseased trees, or otherwise to preserve the present condition of the Protected Property.

Consistent with the Purpose of this Declaration, Grantor reserves the right to establish, maintain and manage recreational trail(s) for public use on the Protected Property as set forth below: Grantor may use, establish, or relocate the trail to remain contiguous with trails on abutting properties now or hereafter established for the safe and orderly passage and re-passage of the public. Grantor may mark and designate the trail(s) with such symbols, blazes or signs as it deems necessary to regulate the safe and orderly usage of the trail. Grantor may improve the trail with, by way of example and not limitation, timber steps, boardwalks, railings, culverts and bridges, barriers to discourage use by motor vehicles, cairns, surfacing with permeable materials and alterations necessary to prevent erosion, and may selectively cut and prune vegetation, and remove leaners and blowdowns, to preserve safety and provide scenic views. Use of any trail by the public shall be limited to walking, running, hiking, cross-country skiing, snow-shoeing, and similar non-motorized, passive recreational uses, provided such use shall be subject to the rules, regulations and/or limitations, including regulations established by Grantor, to regulate trail activities and uses. The Grantor may erect and maintain one or more informational kiosks on the Property. Grantor and Grantee shall take reasonable steps to ensure that any such trail is used only in such a manner that the responsibility of the Grantor for any injury to person or property shall be limited to the maximum extent possible in accordance with Sections 52-557g through 52-557i of the Connecticut General Statutes as amended. The Grantor may make the trail available to the general public consistent with the provisions hereof without charge, rent, fee, or other commercial service.

#### INSPECTION AND ENFORCEMENT BY GRANTEE:

The Grantee or its Agent may enter the area designated by the Development Restriction at all reasonable times for the purposes of inspecting the Conservation Area to determine compliance with the terms hereof. In the event that the Grantee becomes aware of a violation of the terms of this Conservation Restriction, the Grantee shall give notice to the Grantor, at Grantor's last known post office address, of such violation via certified mail, return receipt requested, and request corrective action sufficient to abate such violation and restore the Protected Property to its previous condition at the time of this grant. Grantor and Grantee will refer to a Baseline Documentation Report or Property Management Plan to be developed shall provide a baseline for evaluating changes in condition. Failure by the Grantor to cause discontinuance, abatement or such other corrective action as may be requested by Grantee within thirty (30) days after receipt of such notice shall entitle Grantee to bring an action at law or equity in a court of competent jurisdiction to enforce the terms of this Conservation Restriction; to require the restoration of the property to its previous condition; and/or, to enjoin such non-compliance by ex-parte temporary or permanent injunction in a court of competent jurisdiction. The prevailing party in any such civil action shall be entitled to reimbursement of its reasonable attorney fees and costs.

Nothing herein shall be construed to entitle the Grantee to institute any enforcement proceedings against the Grantor for any changes to the Protected Property due to causes beyond the Grantor's control, such as changes caused by fire, flood, storm, earthquake or the wrongful acts of third persons which the Grantor could not reasonably have anticipated or prevented. In the event of violations of this Conservation Restriction caused by such wrongful acts of third persons, at Grantee's option, Grantor agrees to assign their right of action to Grantee, to join in any suit, and/or to appoint Grantee their attorney-in-fact for the purposes of pursuing enforcement action

#### PERMANENT RESTRICTIONS WHICH RUN WITH THE LAND:

The Development Restriction shall run with the land and shall be binding upon the Grantor/Declarant, the Grantee and their respective heirs, successors and assigns, and shall be irrevocable.

#### AMENDMENTS; LIMITATION ON AMENDMENTS.

This Restriction is intended by the Grantor and Grantee to protect the Conservation Values of the Protected Property in perpetuity. There may come a time when unusual and unforeseen circumstances arise which in the judgment of Grantor and Grantee merit consideration of amendment of this Restriction, and Grantee determines, in its sole and absolute discretion, that such amendment is appropriate to protect or enhance fulfillment of the Purpose of this Restriction in perpetuity, to correct an error or clarify an ambiguity, to add new land area to the protection of the Restriction, to remove a Grantor's retained right, or to upgrade standard language and format to reflect statutory or regulatory changes, or improve enforcement and improve administration. provided that no amendment shall:

- (i) affect this Restriction's perpetual duration,
- (ii) permit development, improvements, or uses prohibited by this Restriction on its effective date,
- (iii) conflict with or be contrary to or inconsistent with the conservation purposes of this Restriction,
- (iv) reduce the protection of the conservation values,
- (v) affect the qualification of this Restriction as a "qualified conservation contribution" or "interest in land",
- (vi) affect the status of Grantor as a "qualified organization" or "eligible donee", or
- (vii) create an impermissible private benefit or private inurement in violation of federal tax law.
- (viii) No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor and recorded in the Clerk's Office of the Town of Newtown.

ACCEPTANCE BY GRANTEE

The Town of Newtown, Grantee, hereby accepts the terms and conditions of this Declaration of Development Restrictions.

In witness whereof, the Grantor and Grantee have set their respective hand and seal this day April \_\_, 2021.

Witnesseth:

**The Newtown Forest Association,  
Incorporated**

\_\_\_\_\_

by \_\_\_\_\_  
Clarence O. Peterson, IV  
Its President, duly authorized

\_\_\_\_\_

**Town of Newtown**

\_\_\_\_\_

by \_\_\_\_\_  
Its \_\_\_\_\_, duly authorized

\_\_\_\_\_

STATE OF CONNECTICUT

ss.

COUNTY OF FAIRFIELD

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, personally appeared Clarence O. Peterson, IV, President of **The Newtown Forest Association, Incorporated**, signer and sealer of the foregoing instrument, who acknowledged the same to be his free act and deed and the free act and deed of the corporation, before me.

In witness whereof, I hereunto set my hand and official seal.

\_\_\_\_\_  
Commissioner of the Superior Court  
Notary Public



STATE OF CONNECTICUT

SS.

COUNTY OF FAIRFIELD

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, of the **Town of Newtown**, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that (s)he executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof I hereunto set my hand.

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Commissioner of the Superior Court  
Notary Public

## SCHEDULE A

All that certain piece or parcel of land, situated in the said Town of Newtown, containing twenty (20) acres, bounded North by land now or formerly of Joseph Durant and land now or formerly of the Estate of William N. Northrup; East by the highway; Southerly and Westerly by land now or formerly of the Estate of H.B. Northrup.

Being the same premises as: the Second Tract set forth in the deed recorded in Volume 141, at Page 291; the Second Piece in the deed recorded in Volume 484, Page 798; and, the Third Piece in the deed recorded in Volume 695, at Page 371, all as recorded in the Newtown Land Records.

Subject to the following encumbrances:

- (a) Any and all provisions of any ordinance, or regulation, or public or private law of the Town or City wherein said premises are situated.
- (b) Taxes of the City or Town in which the premises are situated which become due and payable after delivery of the deed, which taxes Buyer shall assume and agree to pay as part of the consideration for the deed.
- (c) Any assessments or pending assessments for which a lien or liens have not as yet been filed.
- (d) Taxes of any Tax District in which the premises are situated and/or any dues, fees, or charges of private associations or similar entities for which the Seller of the premises may be liable, which become due and payable after the date of the delivery of the deed, which taxes and/or dues, fees, or charges Buyer shall assume and agree to pay as part of the consideration for the deed.