

**TOWN OF COMOX
MEMORANDUM**

TO:	MEMBERS OF COUNCIL
FROM:	RICHARD KANIGAN, CHIEF ADMINISTRATIVE OFFICER
SUBJECT:	MACK LAING TRUST
DATE:	MARCH 11, 2016

RECOMMENDATION:

That the Town rise and report on the attached information regarding the Mack Laing trust.

BACKGROUND:

The letter from Mr. Olsen is requesting information related to the Mack Laing trust. Staff are unclear if some of this information has been previously released from in camera, so to be safe, a recommendation to rise and report on all of the attached information is suggested.

RK/II

Town of Comox
Finance Department
1809 Beaufort Avenue
Comox, British Columbia
V9M 1R9

RECEIVED

FEB 16 2016

February 8, 2016

Delivered by Hand

Attention: Donald Jacquest TOWN OF COMOX

Dear Sir,

Re: Accounting of Mack Laing's bequest and related incomes

As a lifelong resident of Comox (b. 1949) I am quite familiar with Mack Laing. My childhood home on Comox Ave. was near his home, Shakesides. As a child I frequently saw Mack striding past my house. By the age of 15 I was brave enough to have a few conversations with him. We became friends. Through that friendship he became an instructor to me; he opened my eyes to the natural world. On many occasions I was a guest in his home. During the late years of his life he spoke of what would become of his property after his death.

I have reviewed your accounting of monies associated with Mack Laing's bequest to the Town of Comox, dated July 29, 2015. This is an incomplete accounting because it starts at Dec. 31, 2000 and Mack Laing's bequest to the Town of Comox was made in 1982. Furthermore, your accounting makes no mention of either the rental income the Town of Comox received from various tenants of Mack Laing's residence called Shakesides or an additional sum which may have existed from "the sale moneys realized from any items not so retained to be used towards adaption of the building" (quoted from Laing's 1981 Last will).

As you are likely aware, currently there is an effort to preserve and restore Shakesides and the Mack Laing trust property. This is a joint effort undertaken by the Town of Comox and other concerned stakeholders that are part of a committee. Unfortunately, your previous accounting is not accurate and does not truly reflect the monies earned by Mack Laing's initial bequest since it was received by the Town of Comox.

A full accounting would not only benefit the efforts of the stakeholder committee, it would benefit the citizens of Comox generally. The work of preserving and restoring Shakesides and the associated property will inevitably be constrained by the funds available. A full accounting would allow the Town and the committee to accurately plan and execute a restoration project.

Would you please provide me with a complete accounting of all the moneys relating to the Mack Laing bequest including those realized from the sale of his art works, chattels, and any other residue. In addition would you please provide a statement of both the rental income received from Shakesides from 1982 to 2012 and any costs involved with the maintenance and repair of the building.

If the records do not exist to allow for a full accounting, that should be noted on any accounting document concerning the bequest monies and best efforts to estimate these incomes should be made. I am more than happy to help by sharing my knowledge of all or most of those tenants.

If there is any way I can help in creating a full and proper accounting as possible, please do not hesitate to contact me either by phone or mail.

Yours truly,



Gordon Olsen
321 Glacier View Drive,
Comox, BC V9M 1G6
(250) 339 3143

cc. Kevin Simonett, Legal Counsel

Town of Comox

Prepared: D. Jacquest Jan 5, 2016

Continuity of Mack Laing Trust Investments

December 31, 2000 to December 31, 2015

Date	Opening Balance	Investment Income	Closing Balance	Date
Dec 31, 2000	\$ 48,047.05	\$ 1,931.23	\$ 49,978.28	Dec 31, 2001
Dec 31, 2001	\$ 49,978.28	\$ 1,198.35	\$ 51,176.63	Dec 31, 2002
Dec 31, 2002	\$ 51,176.63	\$ 1,497.75	\$ 52,674.38	Dec 31, 2003
Dec 31, 2003	\$ 52,674.38	\$ 1,185.23	\$ 53,859.61	Dec 31, 2004
Dec 31, 2004	\$ 53,859.61	\$ 1,392.23	\$ 55,251.84	Dec 31, 2005
Dec 31, 2005	\$ 55,251.84	\$ 2,240.24	\$ 57,492.08	Dec 31, 2006
Dec 31, 2006	\$ 57,492.08	\$ 2,511.64	\$ 60,003.72	Dec 31, 2007
Dec 31, 2007	\$ 60,003.72	\$ 2,089.45	\$ 62,093.17	Dec 31, 2008
Dec 31, 2008	\$ 62,093.17	\$ 2,740.15	\$ 64,833.32	Dec 31, 2009
Dec 31, 2009	\$ 64,833.32	\$ 2,305.75	\$ 67,139.07	Dec 31, 2010
Dec 31, 2010	\$ 67,139.07	\$ 2,510.30	\$ 69,649.37	Dec 31, 2011
Dec 31, 2011	\$ 69,649.37	\$ 1,678.96	\$ 71,328.33	Dec 31, 2012
Dec 31, 2012	\$ 71,328.33	\$ 1,212.88	\$ 72,541.21	Dec 31, 2013
Dec 31, 2013	\$ 72,541.21	\$ 2,283.38	\$ 74,824.59	Dec 31, 2014
Dec 31, 2014	\$ 74,824.59	\$ 1,847.90	\$ 76,672.49	Dec 31, 2015

We do not keep the Mack Laing Trust in a separate investment account (it remains invested in a single MFA account with other Town reserves), but we have separate accounts for it in our General Ledger (both an asset account for the investment and an offsetting equity account)

Under PSAB accounting standards, Trust accounts must not be reported with other consolidated Town assets and liabilities on our annual Financial Statements, but they are disclosed by a note to the Financial Statements.

These Trust funds are currently (and have been for many years) invested through the Municipal Finance Authority of BC's pooled investment **Bond Fund** - one of the limited types of assets we can invest in under Section 183 of the Community Charter of BC



TOWN OF COMOX CONFIDENTIAL MEMO

TO:	Mayor & Councillors
FROM:	Donald Jacquest, Director of Finance & Protective Services
SUBJECT:	Background on Mack Laing Estate
DATE:	February 5, 2003

On February 2nd, Councillor Fletcher requested some background information on the Mack Laing Estate, and issues that are likely to arise. Here is what I have.

The Bequest ...

Hamilton Mack Laing died in 1982 and in April of that year the Town received his real property (the lot that became Mack Laing Park and his residence) and \$45,000. Under the terms of his will, the cash was bequeathed in the following trust: "that the funds so bequeathed will be used for the improvement and development of my home as a natural history museum, twenty-five (25%) per cent of the cash realized to be used for capital improvements to the dwelling house, and the remaining seventy-five (75%) per cent to be invested by the Town, the income earned thereupon to be applied towards the annual operating expenses of a natural history museum, it being my desire, as I have indicated to Alderman Alice Bullen, that my home remain on the said property, in my belief that the upstairs could be renovated to provide accommodation for a resident caretaker for the park, that the present living area could be developed for use as a natural history museum, and the basement adapted as a museum storage area, craft shop, or meeting place."

Jacquest

*

The Trust Fund ...

Attached is a copy of Mack's will and an April 23 2001 memo from Steve Ternent, Town Treasurer, summarizing the state of the fund to December 31, 2000. As you can see from it, we have annually determined the interest earned on the fund, and have deducted the costs of maintaining the house and sometimes the costs of the park, together with a couple of capital projects (new stairs and Nature Panels). By the end of 2000 the fund had only grown to \$48,047 because generally, these annual costs exceeded the interest earned, so nothing was credited to the fund. Personally, I felt that this approach (using fund interest to offset Park & Maintenance costs) was stingy, and therefore for 2001 and 2002, I have credited the fund with all the interest earned. This is motivated by my personal experience that it is best to be generous when interpreting trusts. In all honesty, we could still be more generous and credit the fund with the \$4,200 we receive annually for rent on the house, but haven't. So, at the end of 2002, the fund had \$51,177 in it.

Continued...

* my memo of 2003 was factually incorrect regarding Real Property, which was transferred to Town in 1973 under terms of a Deed of Transfer (that were different from terms of will) *Jf.*



The Problem with Mack's Bequest ...

Mack's home is very small and "quaint". Last year there was an on-site meeting to again look at his idea of converting his house to a natural history museum, with the upstairs being used for a residence, the main floor for the museum and the basement for a gift shop or meeting place. Attached is Al Fraser's May 14, 2002 memo on the meeting. The top floor of the house has no bathroom or space for a cooking area. In short, it isn't big enough for a residence. The main floor is divided up into several rooms, so it would not be very useful for display space. The basement is less than 7 feet high, is uninsulated, and floods seasonally. There is no public road access to the site. In short, it would take a lot of money to realize Mack's dream of converting his house to a museum, and in the end, it would probably look nothing like "his" original house, even if you succeeded. The time to act on Mack's bequest was when the money was first given (and Alice Bullen was still on Council), but even then \$11,250 (1/4 of \$45,000) was NOT enough to realize the renovation, and the interest earned on the balance (\$33,750) would not have been enough to fund operation of a museum. Now that 20 years of inflation have devalued the trust, and the building is 20 years older, I would characterize the possibility of achieving Mack's dream as nearly impossible now.

The Idea Emerging ...

You will note from Al Fraser's memo that there was consensus at the on-site meeting that Mack's house was not suitable for a natural history museum, but that it should remain on-site and occupied, as long as possible (because having someone on-site provides passive security for the site). There was also consensus that perhaps the thing to do with the trust fund is to build an information kiosk on Mack Laing, and his work. If that is built, it is reasonable that we consider applying to the courts for permission to use Mack's trust to help construct it. I obtained a legal opinion on the trust after this meeting (also attached) and I believe that we will need to approach the courts when we have a complete plan (design, cost estimates and funding plan) for the kiosk, if that is a project that Council decides to pursue. If the project proceeds, you can expect the Streamkeepers to push the Town to contribute to the project as well, because the value of the trust fund has shrunk so much from inflation through the intervening 20 years since the bequest. The bottom line is that while the current balance in the trust fund makes the Town look bad, the current Council can say that it has credited the fund with every penny of interest earned during its (so far) brief term. Council also has the option of keeping the status quo - crediting the fund with interest in perpetuity, but never being able to spend any of it because of the impossibility of converting the house to a museum with the \$12,794 (1/4 of \$51,177) available.

Conclusion – Gifts can be expensive ...

The problem we now face arose because Mack Laing gave the Town a gift, but attached impossible conditions to it. I suspect Council of the day wrestled with this and decided it had to accept the property to establish the Park. I know that it is always hard to refuse a gift, but some can become very expensive to accept.

**TOWN OF COMOX
MEMORANDUM**

TO:	MAYOR AND COUNCIL
FROM:	AL FRASER
SUBJECT:	REPORT ON MACK LAING'S RESIDENCE
DATE:	May 14, 2002

On May 9, 2002, an onsite walk-through of Hamilton Mack Laing's former residence was conducted in order to ascertain whether the house could be converted into an interpretive nature centre. In attendance were members of Town Council, Senior Staff, Building Inspection Department, Maintenance, Brooklyn Streamkeepers and the Heritage Committee. (Attendance list enclosed).

There were many ideas exchanged throughout the meeting and the general feeling was that, yes, Hamilton Mack Laing was a significant man in our community and that his work, as a naturalist, be remembered.

Mr. Laing's former residence is a rather old structure and because of a number of spatial and structural concerns was deemed not well suited as an interpretive centre.

The idea of constructing an information kiosk in close proximity to the former residence, providing text and photos on Mack Laing's life and work as a naturalist, was well received. This seems to be viewed as a practical approach to enhancing the park and once we determine what is to be placed on display, a location and conceptual design can be rendered. It was discussed at the meeting that monies from Mack Laing's will may be able to be directed toward this project but that a legal opinion regarding the disposition of these funds should be provided.

cc: R. Kanigan
D. Jacquest

Enclosure: 1

AF/II

Report/Mack Laing's Residence

*Report was received by Council
@ May 15/02 regular meeting.
Motion of thanks to resident
for letting participants take
tour.
af.*

TOWN OF COMOX MEMO

Council

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#20,

TO: HELEN DALE
FROM: STEVE TERNENT *← legal file*
SUBJECT: MACK LAING TRUST – LETTER FROM R. MASTERS
DATE: APRIL 23, 2001

In response to the points and questions in Ms. Masters' letter of April 12, 2001:

- The amount received by the Town as the residual of Mack Laing's estate was \$45,000.
- Of course the Town keeps a separate trust account for the funds. A summary of entries made since the fund was established in 1982, showing a balance of \$48,047.05, is attached. As a matter of interest, only direct costs are charged against the fund and there is no provision for any administrative or supervision costs.
- The will specifies a treatment for the interest on the trust fund, but does not mention rents.
- Each year, Council awards a bursary in Mack Laing's name out of general revenue. The bursary is not and has never been taken from the trust.
- The funds are administered as part of the myriad of funds under the control or ownership of the Town. Income and expenses are recorded separately.
- No natural history museum involving the house has been established to date because the house is old, inadequately powered, poorly insulated and subject to flooding in the basement. It would not be suitable for the use suggested in the will without substantial renovation and restoration. The cost would far exceed the 25% of the bequest (i.e. \$11,250) specified in the will and Council has not been prepared to commit the public funds that would be needed to convert the building

to a museum. There has been an attempt to operate the park as an outdoor natural history museum with the development of trails and interpretive signage.

- If rental income was to be included in the fund and all expenses charged to the fund, the result would be as shown in the attached 'H.M. Laing Trust Fund Summary With Rental Income Included'. This schedule shows a residual balance of \$46,965.95, which is \$1,081.10 less than the balance currently shown in the accounts.

**Town of Comox
H.M. Laing Trust Fund
Summary of Account Entries - 1982 through 2000**

Apr-82	Residual of estate	45,000.00	45,000.00
Sep-83	Sale of Chattels	70.00	45,070.00
Oct-83	Sale of Chattels	15.00	45,085.00
May-84	Donation	25.00	45,110.00
Oct-84	Sale of prints	114.00	45,224.00
1985	Net income/(cost)	2,000.00	47,224.00
1986	Net income/(cost)	3,639.01	50,863.01
1986	Sale of prints	60.00	50,923.01
1986	Sale of books	345.00	51,268.01
1987	Net income/(cost)	168.03	51,436.04
1987	Sale of books	(19.86)	51,416.18
1987	Nature panels	(3,680.00)	47,736.18
1988	Net income/(cost)	1,132.08	48,868.26
1989	Net income/(cost)	606.80	49,475.06
1990	Stairs	(3,000.00)	46,475.06
1990	Net income/(cost)	1,913.35	48,388.41
1991	Net income/(cost)	261.06	48,649.47
1992	Net income/(cost)	-	48,649.47
1993	Net income/(cost)	(1,649.47)	47,000.00
1994	Net income/(cost)	-	47,000.00
1995	Net income/(cost)	-	47,000.00
1996	Net income/(cost)	-	47,000.00
1997	Net income/(cost)	-	47,000.00
1998	Net income/(cost)	-	47,000.00
1999	Net income/(cost)	-	47,000.00
2000	Net income/(cost)	1,047.05	48,047.05

* Net Income is the net of investment income and operating/maintenance costs for the year.

**Town of Comox
H.M. Laing Trust Fund Summary
With Rental Income Included**

	Net Income*	Rent	Other Income	Capital Expense	Fund Balance
April 1982 - Residual of Estate					45,000.00
1982	(2,535.26)	1,800.00			44,264.74
1983	(69.44)	2,400.00	85.00		46,680.30
1984	1,136.15	2,400.00	139.00		50,355.45
1985	19.69	2,400.00			52,775.14
1986	1,902.68	2,400.00	405.00		57,482.82
1987	2,833.53	2,400.00	(19.86)	3,680.00	59,016.49
1988	(522.62)	2,400.00			60,893.87
1989	465.12	2,400.00			63,758.99
1990	1,668.02	2,400.00		3,000.00	64,827.01
1991	(1,674.11)	2,400.00			65,552.90
1992	(2,386.57)	2,400.00			65,566.33
1993	(3,528.88)	2,400.00			64,437.45
1994	(4,070.46)	2,400.00			62,766.99
1995	(8,271.19)	2,400.00			56,895.80
1996	(2,499.96)	3,000.00			57,395.84
1997	(6,826.82)	2,850.00			53,419.02
1998	(439.83)	4,200.00		8,993.03	48,186.16
1999	(10,667.26)	4,200.00			41,718.90
2000	1,047.05	4,200.00			46,965.95

**NOTE that this is a "pro-forma" (what-if)
and not an actual accounting of the funds**

* Net Income is the net of investment income and operating/maintenance costs for the year.

Ruth J. Masters

*C. file
Council
Agenda
H.D.
ST*

RECEIVED

APR 18 2001

TOWN OF COMOX

62 Powerhouse Rd., R.R. NO 3, COURTENAY, B.C.
CANADA V9N 5M8
(250) 334-2270

April 12, 2001

Mayor Kirkwood and Councillors,
Town of Comox.

Dear George and Councillors:

Re: Estate of Hamilton Mack Laing, deceased

In 1984, while working in the law office, I typed Mack Laing's will, copy enclosed, and later following his death I worked with the late Jim Curtis and Alice Bullen on the estate administration.

As I recall, in addition to the splendid nature park which Mack Laing conveyed to the Town as a gift several years before his death, he left his residuary estate to the Town, which received some \$40,000 in cash.

I assume the Town operates a separate trust account for Mack's money, into which house rents have been deposited and disbursements made under the trust. Is it possible to obtain a copy of the ledger sheets relating to the same? I have been told that some Mack Laing funds were disbursed for a school bursary or some such, which, of course, is not authorized by the trust provisions.

If Jim Curtis were alive, he would be quite in order to enquire into what has been done with Mack's money. In his absence, I would appreciate it if you will advise me as to how the trusts funds are being administered - especially since no natural history museum seems ever to have been attempted.

Since many of the parks we enjoy today in this District have been gifts from community-minded citizens like Mack Laing, and several of the same have been mis-handled, it is so important now, if people are going to make such gifts, they can feel secure that the trust provisions will be adhered to.

May I please hear from you relative to the above.

Yours very truly,

Ruth Masters
Ruth Masters.

Copy: Alice Bullen

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PARKS, WILDERNESS and WILDLIFE