

Legal Q&A: Managing the Library's Budget and Finances

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Does the board need a Treasurer?

RSA 202-A:11, III states, in relevant part, that the trustees are charged with “[e]xpend[ing] all moneys raised and appropriated by the town or city for library purposes and *shall direct that such moneys be paid over by the town or city treasurer* pursuant to a payment schedule as agreed to by the library trustees and the selectmen or city council.”

If the library trustees choose to use the town treasurer for treasurer duties, they should work out an agreement with the town's governing body that the town will do some or all of library financial functions. The library trustees approve all payables and payroll, but they are on the Select Board's manifest, and the town treasurer pays out on sums approved by the Select Board from the town general fund.

If the library board of trustees chooses to do its own bookkeeping, the town treasurer pays over sums to the trustees as approved at the annual meeting. There is no further relationship between the town treasurer and library, and it would not necessarily be advisable for the town treasurer to also function in the capacity as the library treasurer. Only the library trustees have custody of the funds.

No matter which method they choose, the trustees should appoint one of their members to the position of treasurer in order to ensure that one person is charged with keeping track of the financial records.

Do we need two people to sign checks? Can the library director sign checks? We have a bookkeeper; can the bookkeeper sign checks?

The trustees should review reports on ALL accounts at every meeting and approve expenses. While one signature may be sufficient, internal controls should be in place to ensure that no one person has the ability to initiate, approve, certify and release funds without the approval of the trustees. Except for a possible petty cash account that the director might manage and sign checks for, board-designated trustees are the only persons who should sign the library's checks. It is best practice that the library trustees maintain control of all finances and select a board treasurer. The trustees may hire a bookkeeper, or a public accountant, or a private service to assist with financial functions and record keeping, with the understanding that trustees are responsible for and maintain control over all finances. The bookkeeper should not have the authority to sign checks, as this would not meet best practice standards for the segregation of duties and oversight over public funds.

Our treasurer says the financial report is confidential. We're talking about public funds. Is his statement correct? Does a person have the right to see the library's financials?

According to RSA 91-A:4, I, “Every citizen during the regular or business hours of all public bodies or agencies, and on the regular business premises of such public bodies or agencies, has the right to inspect all governmental records in the possession, custody, or control of such public bodies or agencies, including minutes of meetings of the public bodies, and to copy and make memoranda or abstracts of the records or minutes so inspected, except as otherwise prohibited by statute or RSA 91-A:5.” In other words, barring some exception, any documents in possession of the trustees or library would be subject to disclosure. Sensitive financial information — such as account numbers or information that could allow someone to commit fraud — would be allowed to be (and should be) redacted. However, basic information such as how much money the library has, how much has been spent, etc. would be subject to public disclosure.

What are lapsed funds? How can we pay for a book order placed before the end of one fiscal year if we don't get the invoice until the following year?

Lapsed funds are those monies which exist but which can no longer be spent. RSA 32:7 states that all money appropriated for town business lapses (i.e., cannot be spent) after the end of the year in which it is appropriated. (For some towns this will be the calendar year; others may use a fiscal year.)

There are, however, exceptions to this rule contained in the statute. One of the most common is “legally-enforceable obligations.” A contract is such an exemption. For example, if the library places an order for the book before Christmas,

the order itself creates a contract, even though that may not be fulfilled instantly (such as when a book is bought at a physical book seller and money is exchanged at the counter).

If no exception applies, then the money would be returned to the unassigned fund balance at the end of the year.

When do we get the money from the town that was appropriated for the library at town meeting? What is an MOU? Do we need to have one?

RSA 202-A:11, III states, in relevant part, that the trustees are charged with “[e]xpend[ing] all moneys raised and appropriated by the town or city for library purposes.” Technically, that means that the money can be spent as soon as approved by town meeting. (For those in calendar year towns, RSA 32:13, II states, in relevant part, that the spending authority may “make expenditures between January 1 and the date a budget is adopted which are reasonable in light of prior year’s appropriations and expenditures for the same purposes during the same time period.”)

However, different towns have different approaches to cash flow. MOUs — memorandum of understanding — are useful because they get everyone on the same page as to how money can (and should) be spent. It is helpful to understand that money doesn’t come into a town on a consistent basis. Property tax bills — which happen a couple of times a year — are the big waves of money, but other sources of revenue also bring in money. The officials and employees charged with managing the municipal finances must ensure that there is enough ready cash at all times to ensure that the municipality (and all its entities) can meet their obligations. As a consequence, in some towns, it may be possible for the municipal governing body to say to the trustees “You have \$X for this year, you can spend it whenever,” but in other towns, the governing body would say “You have \$X for this year, but you can only spend half through Y-date” because of the way that the municipal finances are structured.

Should we set a limit on the library director spending petty cash?

Petty cash should be the mechanism of last resort to make payments, when other disbursement methods are impractical or cannot be used. Petty cash should not be used as an operating fund. *Petty Cash Procedures* should be developed and should include detailed procedures for the handling of petty cash transactions. In addition to establishing the dollar limit and outlining the specific procedures for authorization, access and accountability of petty cash funds, another effective internal control is the performance of frequent, random, unannounced audits. Because of the high risks associated with petty cash, some libraries have implemented credit card or purchasing card programs to eliminate the need for petty cash transactions altogether.

We are thinking about getting a credit card for the library. Who should be able to use it? Should we set a limit on how much? Should we approve spending ahead of time?

As with purchasing policies, policies governing credit card usage tend to be more procedural in nature, outlining the specific steps, documentation and other requirements necessary to achieve the benefits noted above and to establish the controls needed to avoid misuse/abuse of the program. The following controls are recommended to ensure the ongoing success of a purchasing card program:

- Written policies and procedures for internal staff;
- Instructions on employee responsibility and written acknowledgments signed by the employee;
- Spending and transaction limits for each cardholder both per transaction and on a monthly basis;
- Written requests for higher spending limits;
- Recordkeeping requirements, including review and approval processes;
- Clear guidelines on the appropriate use of purchasing cards;
- Guidelines for making purchases by phone and fax or over the Internet;
- Periodic audits for card activity and retention of sales receipts and documentation of purchases;
- Procedures for handling disputes and unauthorized purchases;
- Procedures for card issuance and cancellation, lost or stolen cards, and employee termination;
- and
- Segregation of duties for payment approvals, accounting and reconciliation.

Should we buy a cash register? We keep fine money, small donations, and copier fees in coffee cans. Is that ok?

Coffee cans are really not an acceptable manner for keeping public monies as they are accessible to anyone. All money obtained by the library — whether through fines, small donations, copier fees, etc. — becomes public money as soon as it comes into the hands of the library. All public funds must be able to be accounted for, and it is important to follow best practices to ensure that public funds are not mislaid, misplaced, lost, or stolen. A locked cash box, small safe or locked cash register would be more appropriate. Procedures for making regular deposits of funds should also be developed to ensure an accurate accounting.

Do we need separate bank accounts for the different library income? Can we use QuickBooks for the different accounts?

There is no statutory obligation to have separate bank accounts for different income sources. However, all income and expenses that are taxpayer/public funds must have separate and distinct accounting from any private funds held by the library. Transactions and budget line detail must be clearly delineated for all uses of trust funds; donations and grants, fines, and income-generating equipment must be properly recorded. State or federal accounting reports may be required.

There is no statutory obligation to use (or not use) a specific accounting software for municipal business. QuickBooks is probably the most commonly used financial software in the world across a variety of platforms. Your municipality may have municipal software with the ability for the library to purchase a subscription. The advantage in having the same software is that it can streamline reporting, save money on software costs, and is designed for government financial accounting purposes.

Should the library director or the trustees present the budget to the Select Board or the budget committee?

Even though *Town of Littleton v. Taylor*, 138 N.H. 419 (1994), clarified that libraries are not just another municipal department, they are treated that way during the budget process. While RSA 202-A:11, II requires the trustees to prepare the budget for the library, that budget must still go through the ordinary budget process outlined in RSA chapter 32. As such, it must be presented to either the governing body of the municipality or the budget committee, as appropriate. Often the trustees will ask the librarian to either present the budget or be present to answer questions.

What's the difference between a municipal budget committee and an advisory budget committee?

An official budget committee – also called a municipal budget committee – is governed by the provisions of the municipal budget law, RSA chapter 32, and created in accordance with RSA 32:14. There are certain statutory provisions related to its role and responsibilities during the budget process, as well as membership and other obligations. Most importantly, RSA 32:16, I, obligates the official budget committee to create the budget for the municipality and, therefore, that would be the body to which the trustees would present their proposed budget.

An advisory budget committee is different because it is not governed by the provisions of RSA chapter 32, but it may be created by the municipality (typically the governing body) to assist the governing body in its role in creating the municipal budget. RSA 32:24. Depending on the exact process, that may mean that the advisory budget committee is the body to which budgetary presentations are given, or it may be the governing body.

In the absence of any budget committee, the governing body would be the body to which the trustees would present their proposed budget, and the governing body would be the body which proposes the overall budget of the town.

Can the Selectboard or the Budget Committee change the library's budget's bottom line before it is voted on at town meeting? Can they change any line items?

Yes. Regardless of which board is the one charged with crafting the municipal budget to be debated and voted on at town meeting, that body has the authority to change any municipally proposed budget, including the library trustees. See RSA 32:5. However, even if the municipal governing body or the budget committee decides to change the proposed budget for the library, the library trustees can still obtain their original budget amounts by having a trustee make a motion – like any other citizen — to modify the amounts allocated to the library at town meeting. Or, depending on timing, the trustees could gather the necessary signatures to submit a petitioned warrant article for additional amounts to be allocated to the library. □