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PAUL T. FITZGERALD
PFITZGERALD@WESCOTTLAWNH.COM

28 BOWMAN STREET
LACONIA, NEW HAMPSHIRE 03246-3761
T (603) 524-2166 ~ F (603) 528-2122

April 5, 2018

(Via e-mail (erin@meredithlibrary.org) and
First Class Mail)

Erin Apostolos, Director
Meredith Public Library
91 Main Street
Meredith, NH 03253

RE: Library Trustees

Dear Director Apostolos:

You have inquired as to my opinion relating to the powers and duties of the Library Trustees in contrast to those of the Meredith Board of Selectmen in reference to the ongoing discussion concerning the library expansion/enhancement project.

In New Hampshire, library trustees generally have broad powers over the operation of a town's public library. These powers are enumerated in RSA 202-A:11, a copy of which is enclosed. You will note that among those powers are the preparation and submission of an annual budget for the support and maintenance of the library and the submission of a separate request, when relevant, "for new construction, capital improvements of existing library property". Subsection III of the statute also empowers the trustees to "Expend all monies raised and appropriated by the town or city for library purposes and shall direct that such monies 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."

The powers and duties of the trustees are also enumerated in the "Local Government Law" volumes of the respected treatise New Hampshire Practice authored by Attorney Peter Loughlin. In Volume 13, Section 526 of the treatise, it is stated that the "...library trustees have the entire custody and management of the public library and all of the property of the municipality relating to the public library...".

In my opinion, the board of selectmen certainly have authority over multiple aspects of municipal operations but that authority cannot interfere with the specific grant of power from the State Legislature directly to the library trustees. To address the instant issue, it is the library trustees who have full control over the library facility, including both its location and design. While the trustees may acquiesce to input and suggestions from the selectmen, the public and other parties, it is the trustees who have the final decision over such matters. While there has been little litigation regarding trustees' power, the cases that have made it to the New Hampshire

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28 BOWMAN STREET
LACONIA
(MAIN OFFICE)

272 DANIEL WEBSTER HWY.
MEREDITH
(BY APPOINTMENT)

75 PLEASANT STREET
BRISTOL
(BY APPOINTMENT)

THE JONES HOUSE
STRAWBERRY BANKE
HANCOCK STREET
PORTSMOUTH

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Supreme Court seem to affirm the superiority of trustees' powers over library affairs when compared with selectmen. For example, in *Town of Littleton vs. Taylor*, 138 N.H. 419, 1994, one of the issues resolved was that a library director was subordinate to library trustees and not the local board of selectmen. This would seem to continue the public policy established by the statute in setting the trustees as the ultimate authority over the library, its programs and physical plant.

I hope that the above information is of assistance to you. Please let me know if there are any other remaining concerns or questions at this time.

Sincerely,



Paul T. Fitzgerald

PTF/src

Enclosure

cc: Ann Butler, Chair
Library Board of Trustees
(via e-mail only w/enc)

TITLE XVI LIBRARIES

CHAPTER 202-A PUBLIC LIBRARIES

Section 202-A:11

202-A:11 Powers and Duties. – Except in those cities where other provision has been made by general or special act of the legislature, the library trustees of every public library in the state shall: I. Adopt bylaws, rules and regulations for its own transaction of business and for the government of the library; II. Prepare an annual budget indicating what support and maintenance of the free public library will be required out of public funds for submission to the appropriate agency of the municipality. A separate budget request shall be submitted for new construction, capital improvements of existing library property; III. Expend 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. All money received from fines and payments for lost or damaged books or for the support of a library in another city or town under contract to furnish library service to such town or city, shall be used for general repairs and upgrading, and for the purchase of books, supplies and income-generating equipment, shall be held in a nonlapsing separate fund and shall be in addition to the appropriation; IV. Expend income from all trust funds for library purposes for the support and maintenance of the public library in said town or city in accordance with the conditions of each donation or bequest accepted by the town or city; V. Appoint a librarian who shall not be a trustee and, in consultation with the librarian, all other employees of the library and determine their compensation and other terms of employment unless, in the cities, other provision is made in the city charter or ordinances.

Source. 1917, 59:1. 1919, 35:1. PL 10:56. 1927, 82:4. 1933, 60:3. RL 15:59. 1943, 90:2. RSA 202:10. 1963, 46:1. 1983, 272:1. 2000, 9:4, eff. April 16, 2000.