

We're All In This Together:
Division of Powers & Effective Collaboration
Between Public Library Trustees and
Selectboard Members

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Finding the Law of Public Libraries

Where to look?

- Vermont Statutes Annotated
 - Title 22, chapter 3: Public Libraries
 - Title 24: Municipal Government
 - Title 11B: Nonprofit Corporations
- Vermont Department of Libraries' rules
- Town and county records (votes, deeds, appointments)
- Library's articles of incorporation, bylaws, and policies
- Trusts, wills, and other documentation of gifts received
- Court cases interpreting any of the above

Types of Public Libraries

“ ‘Public library’ means any library established and maintained by a municipality or by a private association, corporation, or group to provide basic library services free of charge to all residents of a municipality or a community and which receives its annual support in whole or in part from public funds.”

22 V.S.A. § 101(2)

Types of Public Libraries

INCORPORATED LIBRARIES:

Private nonprofit corporations, incorporated to establish and maintain a library.

22 V.S.A. § § 101 -111

MUNICIPAL LIBRARIES:

Publicly owned libraries established by a vote of the town, city, or village.

22 V.S.A. § § 141-146

Incorporated Libraries

CREATION:

- When a group of individuals or a corporation has received a gift of property intended to establish a public library, they may form a library corporation by making the appropriate business filing with the Secretary of State.
- Organization is complete after the Secretary of State issues a certificate and the trustees record it with the county clerk.

Incorporated Libraries

GOVERNANCE:

- Library trustees, as the corporation's members, govern the incorporated library.
- State law requires at least five trustees, but no more than 15.
- Trustees elect their own officers and (usually) fill their own vacancies.

Incorporated Libraries

AUTHORITY:

- The library corporation has all the powers of a regular corporation.
- The trustees “have control and management of the affairs and property of the corporation.” 22 V.S.A. § 105.
- Acting through its trustees, the library corporation may:
 - Own and sell property.
 - Make and keep bank accounts; accept donations; spend money.
 - Adopt bylaws and policies.
 - Employ staff.
 - Sue for detained and damaged library property.

Incorporated Libraries

AUTHORITY:

- The corporation may also be governed by the terms of the original gift creating the library (e.g. will or deed).
- The trustees may lose some power if they agree to have the town take over some of its functions.

Incorporated Libraries

TAXATION:

- The library and other corporation property used for library purposes is not subject to taxation.
- Towns may treat property owned by an incorporated library, but leased to raise funds for the library, differently.

Incorporated Libraries

FUNDING:

- Sources may include town appropriations, interest on endowments or savings, state or federal grants, gifts, donations, fundraising, and fees.
- Simply accepting public money does NOT convert an incorporated library into a municipal library.
- Public funds MAY come with strings attached, such as:
 - Trustees to be elected by the voters at town meeting.
 - Town auditors to audit certain accounts.
 - Board meetings to comply with Vermont's Open Meeting Law.

Municipal Libraries

CREATION:

- By the municipality's voters, at an annual or special meeting.
- The vote should specify:
 - Whether library trustees will be elected by the voters or appointed by the municipality's legislative body (selectboard, city council, village trustees).
 - Number of trustees and length of terms of office.

Municipal Libraries

GOVERNANCE

- Library trustees, either elected or appointed, are responsible for managing the library. State law requires at least five trustees.
- Vacancies are filled by the municipality's legislative body, until a new election is held.

Municipal Libraries

AUTHORITY:

Library trustees have broad authority to oversee the library.

“The board shall consist of not less than five trustees who shall have *full power* to manage the public library, make bylaws, elect officers, establish a library policy and receive, control and manage property which shall come into the hands of the municipality by gift, purchase, devise or bequest for the use and benefit of the library. The board may appoint a director for the efficient administration and conduct of the library.”

22 V.S.A. § 143(a)

Municipal Libraries

TAXATION:

Generally covered by the town's tax-exempt status.

FUNDING:

- Municipal appropriations.
 - Initial appropriation by the municipality's voters to establish a library and to procure suitable library facilities.
 - Annual appropriation by the voters for the library's maintenance and care.
- May also include interest on endowments, state and federal grants, gifts, donations, fundraising, and fees.

Who is in charge?

- Know your library's sources of authority.
- Become familiar with the law of public libraries.
- Recognize that our laws do not address every possible scenario.
 - Work together on behalf of your community.
 - Lean on the resources available to trustees, local officials, and members of the public.
 - When in doubt, consult your legal counsel.

The Players

- Library's board of trustees
- Municipal legislative body
- Voters of the municipality
- Other municipal officials, e.g. treasurers, auditors, town manager
- Library director and staff
- Members of the community: library patrons, volunteers, donors, businesses, community groups, taxpayers

Personnel: Incorporated Libraries

Library board of trustees:

- Hires and oversees the library director.
 - Generally delegates day-to-day operations to the library director.
 - May give the library director authority to hire other library staff.
- Responsible for policy decisions.
 - Determines rates of pay and benefits coverage.
 - Adopts personnel policies that apply to library employees.

What if incorporated library asks town to convert library employees into town employees for benefits purposes?

As town employees:

- Now covered by town's personnel policy (unless specifically exempted).
- Now hired by selectboard (unless delegated to trustees).

Personnel: Municipal Libraries

Library board of trustees:

- Hires and oversees the library director.
 - Generally delegates day-to-day operations to the library director.
 - May give the library director authority to hire other library staff.
- Responsible for library policy decisions.

Selectboard:

- General authority over town affairs, including management of personnel, except where other officials are authorized to act by specific laws...
- May adopt personnel policies for the municipality.

Personnel: Municipal Libraries

Hartford Library Trustees v. Town of Hartford, 174 V.S.A. 598 (2002):

“Town cannot, in the name of administrative efficiency, infringe on the Board’s ‘full power to manage’ the library.”

Municipal library board of trustees (and not the selectboard):

- Sets the library director’s salary.
- Determines the hours of library operation.
- Directs how the library’s money is to be spent.

Personnel: Municipal Libraries

To avoid conflicts:

- Municipal library trustees might consider adopting a personnel policy for the library.
- Selectboards might consider specifically exempting library employees from the town's personnel policy.
- If regular town benefits are to apply to library employees:
 - Library policy should reference town policy's benefit provisions.
 - Town policy may exempt library employees from all policy provisions except the relevant benefit provisions.

Always consult your legal counsel!

Buildings

Trustees are generally responsible for building-related decisions, including maintenance and upkeep, unless:

- A municipal library has another arrangement with the town.
- The library is a tenant in another entity's building.

If the town or school owns the incorporated library's building, the municipality's legislative body:

- Makes building-related decisions.
- May have some control over what other groups use the library's space (liability).

Trustees should encourage use of the library facility as a community center. 22 V.S.A. § 67.

Finances: Incorporated Libraries

BUDGET:

Board of trustees approves the budget, which is likely drafted by the library director with help from the board treasurer.

SPENDING:

Board of Trustees controls all funds, including municipal appropriations (though appropriations may have strings attached).

INVESTMENTS:

Board of trustees may handle investments, or may ask the board treasurer or a board committee to do so.

Finances: Incorporated Libraries

BOOKKEEPING:

Board of trustees usually appoints a treasurer who pays bills, tracks funds, and may oversee a bookkeeper.

AUDITS:

Funding sources (e.g. municipal appropriation article; state or federal grants) may require independent audits.

Finances: Municipal Libraries

BUDGET:

- Board of trustees approves a library budget, which may be drafted by the library director with input from the selectboard.
- Selectboard proposes a town budget, including the library appropriation, for annual approval by the municipality's voters.
- The library appropriation may be a line item or may be voted separately.

Finances: Municipal Libraries

SPENDING:

The board of trustees...

- Has “full power” to spend the town appropriation (which may have strings attached).
- Likely needs voter approval to spend grants, donations, and fundraising proceeds.
- Has the authority to order the town treasurer to draw checks on library accounts to pay salaries and other bills.

Finances: Municipal Libraries

INVESTMENTS:

- Town treasurer invests non-trust library funds, with selectboard approval.
- Board of trustees usually invests library trust funds, pursuant to stipulations on use of funds put in place by the donor.

BOOKKEEPING:

Town treasurer keeps the books, but the trustees may also appoint a board treasurer who approves invoices for payment by the town treasurer.

AUDITS AND REPORTING:

- Board of trustees must report the condition of the library, and of management and expenditures, at annual meeting.
- Town auditor audits library accounts and must report to the voters as part of the town report.

Open Meetings and Public Records

Open Meeting Law:

- Municipal libraries must comply.
- Incorporated libraries, which are bound by statutory nonprofit meeting requirements, may also be required to comply with the OML as a condition of funding.

Public Records Act:

- Municipal libraries must comply.
- Incorporated libraries, which are bound by statutory nonprofit record and report requirements, probably need not.

Ethics

Where to look?

- Statutory conflicts of interest requirements for nonprofits
- Municipal conflicts of interest ordinance (adopted by the voters)
- Department of Libraries' rules and guidance documents
- Library's bylaws and policies (e.g. rules of procedure; policies on ethics, gifts, bidding and purchases, personnel)
- Court cases establishing trustee duties (e.g. care, loyalty)

Working Together

- Important: We Are All In This Together
- Also Important: Knowing State Statute
 - Municipal Library Trustees: “Shall have full power”
22 V.S.A. § 143
 - Incorporated Library Trustees: “have control and management of the affairs and property of the corporation” 22 V.S.A. § 105
- It’s a delicate balance to maintain and nurture

Ideas for Working Together

Community Needs Assessment



Source:

<https://www.flickr.com/photos/90664717@N00/2686040967>

Ideas for Working Together

Community-Wide Initiatives



Source:

<https://www.flickr.com/photos/mmmavocado/10925542573>

Ideas for Working Together

Research Assistance & Information Dissemination

Source:

<https://www.flickr.com/photos/pamwood707/5646757752>



Libraries Benefit Your Community

Libraries serve as a
Community Hub -
bringing the entire
community
together



Source: Burnham Mem. Lib. Facebook Page

Libraries Benefit Your Community

Libraries are vital
to a functioning
democracy



Goodrich Memorial Library, Newport

Libraries Benefit Your Community

Libraries sustain
our communities



Martha Canfield Library, Arlington

Libraries Benefit Your Community

Libraries offer a wide range of resources & services – both inside and outside the library building



Source:

<https://www.flickr.com/photos/albertleapubliclibrary/14448411351/>

Libraries Benefit Your Community

Libraries provide a space for educational, social, cultural, and recreational engagement



Source:

<https://www.flickr.com/photos/sanjoselibrary/31234520260>

Libraries Benefit Your Community

Libraries help your taxpayers connect with local government.



Brooks Memorial Library, Brattleboro

Libraries Benefit Your Community

Libraries are the
ultimate
renewable
resource



Source:

<https://www.flickr.com/photos/awesomelibraryservices/16393118653>

Libraries Benefit Your Community

Libraries Offer a
Fantastic ROI



Source:

<https://www.flickr.com/photos/143843618@N03>

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