

NH Library Trustee

The Newsletter of the New Hampshire Library Trustees Association

www.NHLTA.org

Town of Littleton Vs. Kathryn Taylor: *The 1994 lawsuit that established NH libraries' independence*

On March 10, 1992, at Littleton's annual Town Meeting, the town's fulltime public librarian Kathryn Taylor was elected to the Select Board. RSA 669:7 prohibits any fulltime town employee from simultaneously serving on the Select Board. Ms. Taylor's election was challenged by the other two selectmen and three taxpayers. When a Superior Court hearing on March 22 determined that Ms. Taylor was not a fulltime employee and could serve as a selectwoman, the taxpayers appealed that decision to the NH Supreme Court. The Supreme Court upheld the lower court's decision on April 12, 1994, ordering the town to pay her legal fees and to keep her in office.

The comprehensive state library law known as RSA 202-A was first enacted in 1963. Thirty years later, it had its first test in the Supreme Court – and won. The lawsuit established that public librarians are not town employees and the consequences of this decision are far-reaching: the library is a separate and distinct entity from the town. The public library could be termed, as Lebanon lawyer Laurence F. Gardner stated¹, a municipality within the municipality.

The Supreme Court, quoting the legal authority in RSA 202-A, stated: "The board appoints the librarian, determines compensation and other terms of employment and has the exclusive power

to discharge or remove the librarian from office. Neither the town's board of selectmen, nor the town manager has any authority to assign duties to, to supervise the work of, or to remove the librarian. . . . The library budget is funded by both town taxes and private sources. The board determines how to expend, and has the power to expend, all funds provided to the library."

As it happens, in some towns, the library budget is part of the selectmen's budget and library employees are paid (using library funds) by the town treasurer. Town residents may consider the library to be a town department, similar to the police or fire department. No wonder that taxpayers – such as the ones in Littleton who filed the suit, thought that the librarian was a town employee.

What should libraries do? They should make it very clear that New Hampshire public libraries are separate from the town. They should exercise their independent powers so that the town knows who runs the library. The trustees are responsible to the voters, not the Select Board. This means standing up for library appropriations and library policies – but that's what the state legislature wanted libraries to do when they established the RSAs in 1963. It also makes it easier to maintain autonomy and guard against future problems if all financial transactions are kept separate from the town.

And what happened to Kathryn Taylor? After making NH library history, she left the state in 1998 for a position as the Executive Director at the Westerly Public Library in Rhode Island. She now works as a library consultant.

¹ *Legally independent Libraries & The Selectmen* by Laurence F. Gardner

The consequences of this decision are far-reaching: the library is a separate and distinct entity from the town.

INSIDE

- 2** From the President
Thank You, Sponsors
- 3** Library Director's Review
Budgeting and Finance Workshop
- 4** Conference 2024 Review
- 6** Legal Q&A
- 7** Regional Gathering: Weeks Public Library Calendar

There's still time:

2024 Annual Awards Deadline is July 12!

Each year NHLTA recognizes those who have contributed to the excellence of NH public libraries. Instructions, awards descriptions, and all criteria can be found at www.NHLTA.org.



Marcia McLaughlin
NHLTA President

Summer 2024

As I write this issue our annual conference is just days away. I am not able, therefore, to wax poetic about how wonderful the conference was. But I can say that the effort put in by the conference committee in preparing it for you was outstanding. Once again, Rosemary D'Arcy and Deb Caplan co-chaired the committee – their third year. Under their leadership, and with the assistance of the new chairs for the conference in 2025 – Tammy Hooker, Janet Hromjak and Renee Mallett – there have been processes put into place which will make the planning process smoother for those involved for years to come. The board extends its thanks to Rosemary and Deb for your three years of dedication to the conference and the excellence they have brought forth.

It is with regret that we say farewell to both Deb Caplan and Anne Chant as their terms on the board have ended and they have elected not to seek another term. They have both been vital members, Anne as vice president and chair of the Gover-

nance Committee and secretary to the Education Committee, and Deb on the Education Committee and conference co-chair. Thank you, ladies, for saying yes when invited to join the board and for your years of service.

Due to their departure, we have vacancies to fill on the board. The greatest qualification one could bring to the board is the love of our library world here in New Hampshire, followed by an interest in helping your fellow trustees be the best they can be to serve their communities, and a willingness to roll up your sleeves and pitch in. It is a working board, and our monthly meetings are most often conducted via Zoom. Please feel free to reach out to me at marciapmcl@gmail.com if you have any questions or would like to explore the possibility of joining the board.

I wish you a wonderful summer!

A handwritten signature in black ink that reads "Marcia".

m.mclaughlin@nhlta.org

Thank You to Our Conference Sponsors & Exhibitors!

Bar Harbor Wealth Mgt
www.barharbor.bank

Bonnett, Page & Stone
www.bpsnh.com

Clean Energy NH
www.cleanenergynh.org

Community Matters
www.communitymatters.com

Dore + Whittier
www.doreandwhittier.com

Drummond Woodsum
www.dwmlaw.com

MHEC (Mass Higher Ed Consort)
www.mhec.net

Milestone Engineering & Construction
www.milestoneengcon.com

Dennis Mires, P.A., The Architects
www.thearchitects.net

NH Public Deposit Investment Pool
www.nhpdip.com

Placework
www.placework.studio

SMP Architecture
www.sheerr.com

TD Bank
www.td.com/us/en/personal-banking

Tappe Architects
www.tappe.com

Tucker Library Interiors
www.tuckerlibraryinteriors.com

WV Engineering Associates
www.wvengineering.com

Conducting the Library Director's Performance Review

In the year since I started working at the State Library, I've had several questions about how to conduct a director's performance review. The NHLTA Trustee Manual nicely summarizes this responsibility in their code of ethics by stating, "Respect the director as the professional administrator of day-to-day operations and procedures; do not undermine the authority of the director's supervision of staff; administer regular performance reviews of the director according to library personnel policies."

I'd like to offer a few "big thoughts" and some specific tips to help trustees think about their responsibility to review the library director's performance.

1. In advance of the actual review, it can be beneficial to have a conversation with the director and ask if the person prefers to receive a copy ahead of time so they can review it in their own space and time? Or does the individual prefer to receive information verbally? Recognizing that a review can make people nervous and asking how the person best receives information can set the stage for a more productive review.
2. While we all like to hear "Great job!" or its equivalent, specific feedback is also appreciated. Something like, "We really appreciate the way you gathered data about the change in audiobook circulation and adjusted the budget accordingly," is going to feel very meaningful.
3. It's easy to base a review on recent memory; the past month or so but an annual review should cover the full 12 months. Throughout the year, board members could write themselves brief notes about the director's work that could be used to jog the memory and be incorporated in the annual review.
4. Like your policies, the director's review should come from the Board of Trustees as the governing body of the library, not one individual on the Board.
5. To dot your Is and cross your Ts, it's not a bad idea to vote to accept the review and, if the Board would like one person to meet with the director, vote to empower that individual to speak on behalf of the Board.
6. Compensation matters! We all appreciate a good review and if you really think your director is doing a good job, pay them accordingly! Take a look at the director's salary as compared not just to other library directors in the state but other department heads in your town. Does it seem equitable to the board?
7. If you're not sure where to start or if you'd like to revamp your process, the NHLTA website has a sample director review on it. Or reach out to other trustees to see what kind of a form and process they are using. We're all always stronger together!



Mindy Atwood

Budgeting and Finance Workshop for Library Trustees July 16

One of the most important responsibilities of public library trustees and directors is financial. Most trustees have the fiduciary responsibility to establish a financial system, propose an annual budget to their constituents and manage the library's finances. This workshop will cover the nuts and bolts of creating a budget; advocating for that budget; and expending, tracking, and reporting expenditures. Presenters Adam Shlager and Brittany Durgin will discuss incorporating strategic goals and stakeholder input into a budget, presenting budget requests, building relationships with town

and city officials and establishing a Capital Improvements Plan (CIP). This workshop will be interactive with the opportunity to ask questions on operating budgets and trustee-managed funds.

Brittany Durgin is the library director at Moultonborough Public Library. During her years as a library director in New Hampshire she has helped craft and oversee library budgets in small and rural communities, led and executed strategic planning initiatives and participated in statewide advocacy efforts. Adam Shlager is the library director at the Weeks Public Library in Greenland. After careers in restaurant

management and the healthcare industry, Adam turned to libraries, working his way from page to technology librarian to director while getting his MLIS. He has advised on finance, budgets, policy, strategic planning, space planning, information technology, and commercial construction.

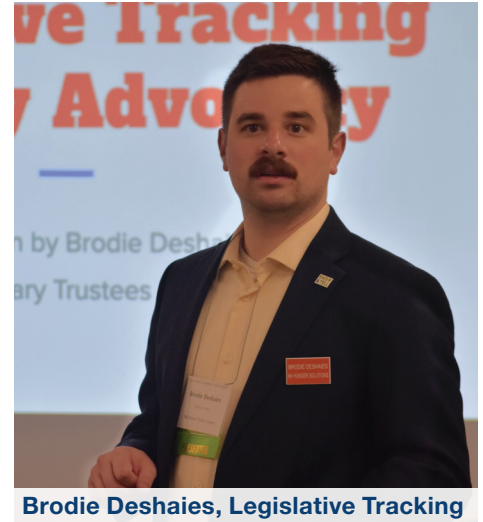
This free workshop will be held on Tuesday, July 16 from 10 am to 2 pm at the Center at Triangle Park (NHMA Bldg), 25 Triangle Park Drive, Concord. There will be a brief lunch break. Please bring a bag lunch and beverage. Register online at www.nhlta.org. The registration deadline is June 30.

2024 NHLTA Conference

The 2024 Annual Meeting and Conference is now history and aside from a few technological glitches and quibbles about food (“I loved the plated lunch” / “I was disappointed and unsure what the sandwich meat was.”), overall the conference was deemed a success. “These topics are exactly what we need to learn about for our libraries.” We had a near-capacity attendance, which also caused some problems with standing-room only in a few workshops. We appreciate all the feedback and will keep your suggestions in mind as we begin to plan for next year.



Jeanne Palleiko, Fundraising



Brodie Deshaies, Legislative Tracking



Registration



Co-chairs Deb Caplan and Rosemary D'Arcy, Keynote Speaker Nick Tanzi (center)



Premier Sponsor: Adriana Grimes, Drummond Woodsum



Exhibitor/Sponsor: Jeffrey Hoover, Tappe Architects



Exhibitor: Ryan Kidder, MHEC



Natch Greyes, Legal Topics



Anna Cole and Hannah Devoe, Your Legal Ducks in a Row



Michelle Elbert, Trustee Basics



The Annual Meeting

Let's invest in you.

Learn more about how our options and objectives focus on safety, liquidity and yield at NHPDIP.com

New Hampshire Public Deposit Investment Pool

Exhibitor: Beth Galperin, NHPDIP

Exhibitor: Katrin Kaspar and Beth San Soucie, Clean Energy



Exhibitor/Sponsor: Placework architects Liz Nguyen and Joel Lacasse who also presented



Yum!



By Natch Greyes,
Government Affairs
Counsel, NH Municipal
Association (NHMA)

It is always wise to memorialize the terms of employment in a contract form, signed by both the employee and the trustees upon appointment.

Legal Q & A: Library Employee Contracts

As news coverage and comedic hosts such as John Oliver highlight the spreading issue of organized book challenges, library employees in New Hampshire should breathe a sigh of relief that they have strong statutory protections that prevent their arbitrary removal.

As strange as it may seem, “the librarian” – often referred to as the “library director” – and the employees of the library are all appointed by the board of trustees, but there is a slight difference in their statutory provisions. The librarian is appointed “...for a term of office agreed to at the time of employment and may serve until a successor is appointed and qualified.” RSA 202-A:15. Additionally, the librarian “...shall have education of sufficient breadth and depth to give leadership in the use of books and related materials.” RSA 202-A:15.

In contrast, library employees are recommended to the trustees for appointment by the librarian and the trustees have broad power to “determine their compensation and other terms of employment.” RSA 202-A:11, V; RSA 202-A:16. However, library employees may not be “discharged or removed from office except by the library trustees for malfeasance, misfeasance, or inefficiency in office, or incapacity or unfitness to perform the employee’s duties.” RSA 202-A:17. (Note that, for those of you in cities, these statutes do provide a different process for appointment and discharge of employees if your city charter contains certain provisions.)

The question that often arises is the difference between not reappointing an employee (a.k.a. not renewing a contract) and termination. The difference, of course, is that once the term of the appointment ends, there is no right to continue to work for pay. Nothing more must occur for the employee and the library to part ways. A reappointment must occur for employment to continue.

While probationary periods are not authorized by the statutes, it is reasonable to assume that trustees may determine the length of time of appointments. Savvy boards may, of course, determine that a shorter appointment period may be appropriate for the initial appointment as compared to reappointments. Such terms should be clearly spelled out in the terms of employment as well as part of the motion for appointment.

It is always wise to memorialize the terms of employment in a contract form, signed by both the employee and the trustees upon appointment. These should clearly outline how and when compensation is set, including what benefits are offered and eligibility, and other provisions relevant to the person’s employment.

If it is the case that an employee must be removed due to “malfeasance, misfeasance, or inefficiency in office, or incapacity or unfitness to perform the employee’s duties,” trustees should ensure that they read RSA 202-A:17 carefully. That statute provides the timeline for notice prior to removal, the necessity of a written statement outlining the reason for removal, the opportunity for a hearing, and clearly states that the employee must be compensated their ordinary amount during the process. Given how difficult removals can be, it is always a good idea for trustees to evaluate whether it would be appropriate to engage the services of an attorney familiar with the library statutes and employment law to help guide them through the process.

Do you have a great idea for an article for the NHLTA newsletter?

We encourage you to submit articles and photos to us for consideration.

Topics could include events, programs, announcements or a recent success.

Please e-mail all submissions to the editor, Katrinka Pellecchia, at k.pellecchia@nhlta.org.

Subscribe to the NHMA Legislative Bulletin
www.nhmunicipal.org/legislative-bulletins.

Regional Gathering: Weeks Public Library

On Saturday, April 13, a group of approximately 30 library trustees and directors met in the Weeks Public Library in Greenland for a lively discussion.

Topics included:

- **Book challenges.** Make sure you have your material selection and reconsideration of materials policies in place and remember that you're protecting access.
- **Strategic planning.** A plan should address a three to five-year period and include the Friends group, a Foundation if your library has one, and should engage the community. A strategic plan should be flexible as well as a guide to consider alternate ways to proceed. Be sure to consider the library as community space in setting strategic goals.
- **Hiring personnel.** It can be challenging when candidates present well, but don't deliver once they have the job. Financially assisting directors who are working towards their MLIS degrees could be a recruitment incentive. Conducting exit interviews can be helpful. Be sure to show appreciation during Library Week.

NHLTA President Marcia McLaughlin reminded attendees about the upcoming Annual Conference on June 5 and the upcoming budget/financial workshop in July. She also strongly recommended that all trustees read the Trustee Manual which is available in their libraries as well as on the NHLTA website.

The regional gathering in the Weeks Library's "Living Room".



Calendar 2024

July 16 10 am-2 pm Budgeting and Finance Workshop for Library Trustees

The Center at Triangle Park (NHMA Bldg)
25 Triangle Park Drive, Concord

NH Library Trustee

The Newsletter of the
New Hampshire Library Trustees
Association

EDITOR

Katrinka Pellecchia

DESIGN & PAGE LAYOUT

Jill Shaffer Hammond

CONTRIBUTORS

Mindy Atwood

Carol Boynton

Susan Frankel

Natch Greyes

Renee Mallett

Marcia McLaughlin

Deborah Schanda

Email submissions and
inquiries to the Editor

k.pellecchia@nhlta.org

The NH Library Trustee is published
four times yearly by the New Hampshire
Library Trustees Association (NHLTA),
25 Triangle Park Drive,
Concord NH 03301.

This publication serves as a means of
providing information and news to
library trustees in New Hampshire.

Subscriptions are included as part of
the annual membership dues for the
New Hampshire Library Trustees
Association. The content published is
for informational purposes only and
is not and should not be considered
a substitute for legal advice.

© 2024 New Hampshire
Library Trustees Association

All rights reserved.

No portion of this newsletter may be
reproduced or republished without
permission from the editor.

POSTMASTER:

Return Service Requested



**New Hampshire Library
Trustees Association**
25 Triangle Park Drive
Concord NH 03301

Non-Profit Org
US POSTAGE PAID
CONCORD, NH
PERMIT 485

**RETURN SERVICE
REQUESTED**

NHLTA Board of Directors 2023–2024

Marcia McLaughlin, *President*
Greenland • m.mclaughlin@nhlta.org

Anne Chant, *Vice President*
Tamworth • a.chant@nhlta.org

Kathryn Parenti, *Secretary*
Milford • k.parenti@nhlta.org

Mark Branoff, *Treasurer*
Windham • m.branoff@nhlta.org

Conrad Moses, *Past President*
East Kingston • c.moses@nhlta.org

Deb Caplan
Peterborough • d.caplan@nhlta.org

Rosemary D’Arcy
Bristol • r.darcy@nhlta.org

Cathy Harvey
Spofford • c.harvey@nhlta.org

Tammy Hooker
Hooksett • t.hooker@nhlta.org

Connie Kirwin
Antrim • c.kirwin@nhlta.org

Renee Mallett
Windham • r.mallett@nhlta.org

Jeanne Palleiko
Newbury • j.palleiko@nhlta.org

LIAISON TO THE BOARD

Michael York, *Director*
NH State Library

Rachel Baker, *Vice President*
NH Library Association

MISSION

The NHLTA assists Trustees to be knowledgeable and effective in order to serve, improve and promote New Hampshire Public Libraries.

Like us on

