

**Langley Adams Library
Board of Trustees
Meeting Minutes 11/17/15**

Attendance: Elizabeth Burton, Jay Collins, Barbara Gauvin, Charles Herman, Ann McAnn, Kathleen Prunier, Laurel Puchalski, Christopher Shramko, Leonard Lee Thomas

- ❖ Call to order at 7:02 p.m. Meeting was not recorded. No members of public present.
- ❖ Correspondence
 - Email pertaining to the questions for Town Council on September 18, 2015 and follow-up questions of October 8, 2015 were read. Shortened version of all emailed correspondence regarding the questions were copied and electronically sent to Trustees in absence of hard copies.
 - Plans for program events for November and December and their costs were distributed, prepared by the Youth Librarian and the Senior Library Assistant. K. Prunier made the motion, C. Herman seconded, and it was unanimously voted to approve \$245 toward programming from the Donation report. Funds raised from the Book Sale may be used for programming.
- ❖ Minutes
 - C. Shramko made the motion, seconded by C. Herman to accept the Minutes from the 11/11/15 meeting of new Trustees J. Collins, C. Herman, C. Shramko and L. Thomas with Treasurer B. Gauvin. Remaining Trustees approved the motion.
 - L. Thomas made the motion, seconded by C. Shramko to accept the Minutes as amended from the 11/2/15 meeting, and it was unanimously approved.
 - Approval from the Minutes of 10/28/15 Meeting were tabled until the next meeting.
- Treasurer's report
 - B. Gauvin reported a total of \$2561.78 in vouchers since 10/28/15 meeting.
 - Budget report was distributed, perused and explained. Spending is on target.
- ❖ Staffing report
 - Interim Director position has been posted and the Search Committee has met. A. McAnn is Chair. All applicants will be interviewed under Executive Session.
 - Other open positions (Adult Services Outreach Coordinator and two Library Assistants) have also been posted. Preference is given to town residents, town employees and those with library experience. Multiple applications have been received. C. Shramko made the motion, seconded by L. Puchalski and it was unanimously voted to request input from the Youth Librarian and the Senior Library Assistant after their review of the applicants' resumes' and to create an Interview Committee to interview and propose candidates for the two Library Assistant positions. B. Gauvin and K. Prunier volunteered to head this Committee with C. Herman as an alternate advisor.

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- C. Shramko made the motions , seconded by K. Prunier and it was unanimously voted to charge the Interview Committee with handling the initial interviewing for the Adult Services and Outreach Coordinator position in the same manner, except to bring back their findings and suggestions to the Board at the next meeting. At that time it is hoped that the Interim Director Search Committee will have found a candidate for the position, and will be able to hire within a timely manner.
- Motion made by K. Prunier, seconded B. Gauvin and unanimously approved to adjourn meeting at 8:32 p.m.

Next meeting: December 9, 2015 at 7:00 p.m. at the Library

Respectfully submitted,
Laurel Puchalski, Secretary

Add to

PLEASE NOTE: The format of the email(s) was changed to conserve paper : Town Counsel's answers are in **bold, underlined italic** print, not in red. The original email will be attached to the Minutes for consideration if so voted.
Laurel Puchalski

----- Forwarded message -----

From: Denise Dembkoski <ddembkoski@grovelandma.com>
Date: Tue, Oct 13, 2015 at 7:21 AM
Subject: FW: Library Trustee Questions for Town Council
To: Elizabeth Burton <ehb721@gmail.com>
Beth,

Following your phone call with Bill Dunn, he had me ask Town Counsel several follow up questions. Please see their responses in red.

Thank you,
Denise

From: Denise Dembkoski [mailto:ddembkoski@grovelandma.com]
Sent: Thursday, October 08, 2015 2:35 PM
To: Michele Randazzo
Subject: RE: Library Trustee Questions for Town Council

Hi Michele,

I have some follow up questions:

If there is no Library Director (or interim or acting), in your opinion, who would hire the staff? **In my opinion, the Trustees could recommend to the BOS persons to hire for staff, as an interim measure. As I noted in my prior email, under the Town's bylaw, the Board of Selectmen is the appointing authority for staff.**

The Trustees want to re-instate a former employee, who left in July, and want her to suffer no loss of benefits. I've informed the BOS Chair that the employee used all her personal time, we paid her for her unused vacation time, and she has a few sick days remaining. Question 1, are there any guidelines to reinstating an employee? **The Town's Personnel Procedures Manual suggests that an employee in good standing who leaves the Town's employ but is reemployed within 90 days, is not considered a new employee for purposes of seniority and the like. Presuming that we are within the 90 day period, if she was paid out for her unused vacation time, she doesn't get that back, but I could see restoring the unused sick days. If we are outside the 90 day period, however, the Personnel Procedures Manual clearly states that she/he would be a new employee.**

Question 2, Do the Trustees have the authority to rehire her back, or does that fall under hiring staff? **I see no reason why rehires would create a different situation, under which the Trustees can appoint staff. As the Town's bylaw came into effect just recently, whatever happened previously in terms of Trustees appointing staff (if that in fact occurred) is not dispositive, given the new bylaw.**

If the Trustees make this former employee the Interim Director, can she then appoint herself to her old position? **No, this would be a violation of the Conflict of Interest law, in my opinion. And, recall that the BOS is the appointing authority for staff positions.**

Can the Trustees make a current employee the Interim Director? **Yes.** If so, does she have to give up her current position or could she be appointed in a dual role? **This is a more complicated question, that involves the conflict of interest law. Quick answer, she/he generally can't hold two paid positions, unless a variety of circumstances are met. It is not uncommon, however, to appoint a current employee as an Interim/Acting department head, but they only get one salary, and that person tries to do all the work of both jobs (to varying degrees of success!).**

Does the Interim Director have to be a paid employee or can they be a volunteer? **I don't think this could be a volunteer position; I think we would be violating minimum wage requirements, at a minimum.**

Please advise. The BOS Chair and BOT Chair are scheduled to meet Tuesday afternoon to further discuss these questions. It would be appreciated if you would be able to provide some guidance by then.

Thank you!

Denise

From: Michele Randazzo [mailto:MRandazzo@k-plaw.com]
Sent: Tuesday, October 06, 2015 2:45 PM
To: Denise Dembkoski <ddembkoski@grovelandma.com>
Cc: William Hewig <WHewig@k-plaw.com>
Subject: RE: Library Trustee Questions for Town Council

Hi Denise, my responses to the questions posed are as follows. Please do not hesitate to contact me if there are any further questions. Michele

1. In the absence of a Library Director who is the head of the Library? Who can hire staff?

The Library Trustees do not have independent authority under the Town's bylaws to hire staff, and it is important, therefore, that an interim or acting Library Director be appointed, in my opinion. This cannot be a member of the Board of Trustees, however, as such appointment would be in violation of the state Conflict of Interest Law, unless prior Town Meeting approval is obtained. G.L. c. 268A, §21A; G.L. c. 41, §4A.

Please note that the bylaws are not entirely consistent in terms of the who has the authority to appoint a Director. In Section 15.3, "Responsibilities of the Board of Trustees," the bylaw indicates that the Trustees recommend (presumably to the Board of Selectmen) a Director for appointment. In Section 15.5, "Library Director and Staff," the bylaw states that the Trustees shall appoint a Director. I understand that past practice has been that the Trustees recommend to the Board of Selectmen the individual to be hired as Director. However, given that the bylaw was recently adopted by Town Meeting, and the former Director was appointed prior to the bylaw's adoption (to my knowledge), this will be the first time that a Director is hired (whether interim or permanent) under the new bylaw. It would be advisable to clarify this inconsistent language in the future.

The Mass Board of Library Commissioners has the following response to the question of what to do when a permanent Director leaves the library:

What do we need to do when our director leaves the library?

Good question.

There are three things you must do when a permanent director leaves.

- Submit a verification form that the permanent director is leaving.
- Appoint an acting director while you begin the search for a new permanent director.
- Submit a verification form for the appointment of the acting director.

As you know a permanent library director must meet an educational requirement as one of the requirements for State Aid to Public Libraries. However, the acting director does not need to meet the educational requirement. The acting director can be in place up to three years. (605 CMR 4.01 (4): "A municipality will be considered ineligible for direct state aid if the library has had an acting chief librarian for three or more years from the date that the position became vacant.")

When a permanent director has been appointed you must:

- Submit a verification form that indicates the acting director has left.
- Submit a verification form indicating that a permanent director has been appointed.

http://mblc.state.ma.us/grants/state_aid/blog/tag/certification/

2. According to Trustee Bylaws, Section 15.5, The Board shall appoint a Director who shall be the executive officer of the policies of the Board and shall have charge of the administration of the Library under the direction and review of the Board. The Library Director shall select and recommend appointment of employees to the Board of Selectmen, and shall be responsible for the proper direction and supervision of staff; for the care and maintenance of Library property; for the selection of books and other Library materials and maintenance of the Library's materials collection for the effectiveness of Library services to the public; and for the Library's financial operation within the limitations of the approved budget. The Library Director shall attend all Board meetings and shall advise the Board in Library matters, including making policy and budget recommendations. Our Board was told by the former Director, that the Personnel/Finance Director had given her approval for dramatic changes to the Library's staffing make up (changing 1 of 2 FT benefited positions from Adult services to Circulation Manager) without discussion of change to the Board. This change affects the operation of the library and how the library can meet the needs of the community. Was this change in their purview or should that have been discussed with the Board? Whether or not the Library Director discussed proposed staffing changes with the Trustees prior to approaching the Personnel Officer with respect to posting or filling of positions is, quite frankly, an issue between the Library Trustees and the Director. Typically, staffing issues are the purview of the Director. If the Library Director approaches the Personnel Officer, indicating that she wishes to make staffing changes, the Personnel Officer's responsibilities would be to ensure that such staffing changes complied with Town policies/procedures. It would be reasonable, in my opinion, for the Personnel Officer to accept the Director's statements as to how she plans to staff the Library, without necessarily inquiring whether the Director has consulted the Trustees, since the Bylaws do not appear to confer upon the Library Trustees any role with respect to Library staffing issues.

3. According to Bylaws, Sec.15.3, "The Board shall have care, custody and control of the Library holdings..." - with a director on a six-month probationary period (per Town policy), should the Director instruct/inform the Board or recommend to the Board? I am not sure I understand this question. It is the role of the Library Director to make recommendations to the Board of Trustees, even when the Director is in a probationary period. A probationary employee is not constricted in his/her authority or responsibilities simply by virtue of being a probationary employee, unless the employee's appointing authority has established limitations on that individual's authority during the probationary period. Such limitations could also be establish by bylaw or contract, for example.

4. If a Trustee brings an issue to the Chair and it is not being put on the agenda or addressed to the full board, what is the Trustee's recourse? Should individual Trustees bring issues to the attention of the entire Board or just the Chair? Under the open meeting law, technically, the meeting agenda is comprised of all items the Chair reasonably anticipates 48 hours or more before the meeting. Your bylaws further specify that it is the Chair's responsibility to prepare meeting agendas. We would normally expect that individual Trustees identify to the Chair topics they would like to see on the agenda; but care should be taken so that a quorum of the Board is not communicating on the issue, as that may violate the Open Meeting Law.

But if a Trustee has requested that an item be placed on the agenda and the Chair refuses, there is nothing in the Open Meeting Law that precludes a Trustee from requesting, at an open meeting, that the Board vote to place the item on an upcoming agenda. It is my further opinion, however, that the topic ought not be substantively discussed, until such time as it is on properly and timely posted agenda, in most circumstances, so as to avoid a potential open meeting law violation. In other words, if a majority of the Board wants an agenda item, the Chair does not have the authority to refuse to place it on an agenda, unless the request to place the item on the agenda is untimely or otherwise not consistent with legal requirements. However, the only technically appropriate way to ascertain if a majority is in favor of discussing an item is through a discussion held during a properly posted meeting. This may seem a bit like circular logic, but that is technically what the Open Meeting Law requires. This is general advice; there are many times when legal counsel might advise that a particular topic is not appropriate for discussion in an open meeting, for a variety of reasons. So the suggested "recourse" identified above might not make sense in every situation.

5. What is the chain of command? Can the Town Personnel/Finance Director tell Staff and Trustees not to communicate with each other or the staff will face insubordination noted in their personnel file? Under the Town's bylaws, the Library Director selects and recommends all staff to the Board of Selectmen for appointment. As I have noted previously, the Board of Trustees does not play a role in staff hiring or supervision, under the bylaws, in my opinion. I understand that the Finance Director has been designated by the Board of Selectmen as the Town's Personnel Officer, and thus she has responsibility for administering the Town's personnel system. The Personnel Officer's responsibilities include advising Department Heads (such as the

Library Director) on matters of employee recruitment, selection, appointment and retention. See Town of Groveland Personnel Procedures Manual. In that capacity, the Personnel Officer may be called upon to provide counsel and advice with respect to staff issues. It is certain possible that the Personnel Officer may be asked, in her capacity as Personnel Officer, to comment upon personnel issues, which could include advising upon potential disciplinary issues.

6. What is the process / implications of hiring an Interim Director? There is no process set forth in state law for the hiring of an Interim Director. It is the responsibility of the Trustees, however, to either appoint or recommend for appointment, a Director, which in my opinion includes the appointment of an interim or acting Director. That process usually follows whatever the Town's protocols are for advertising and hiring of staff. As is relevant to this question, the Town's Personnel Procedures Manual provides:

With the approval of the appointing authority, a department head seeking to fill a position shall post a notice of vacancy for the position. The notice will include the job title, initial rate of pay or pay range, summary statement of duties, minimum qualifications relating to education, skills, or experience, directions for submitting applications, and deadline for receipt of applications. Deadline for receipt of applications will be no sooner than ten (10) days after posting. The notice will be posted in the Town Hall. Employment advertising in a local newspaper shall be used to attract qualified candidates and in particular to help meet the Town's affirmative action goals.

In emergency situations, temporary employees may be hired for a period not to exceed 30 days without posting or advertisement of the vacancy.

There are other requirements with respect to recruitment in the Town's Personnel Procedures Manual, and you may want to consult same for additional information.

So, the Trustees could employ the same recruitment process for hiring an Interim Director as was employed to hire the former Director (presuming it complied with the Town's procedural requirements), or use a somewhat truncated process, recognizing that the position is expected to be temporary. Please note that under the Open Meeting Law, the Trustees cannot themselves act as a screening committee, so if the Trustees intend to review resumes, interview applicants, etc., all of this needs to be done in open session. The Trustees could, alternatively, appoint a screening committee to make recommendations to the Trustees of finalists. The screening committee (but not the Trustees) would have some latitude to conduct preliminary screening in executive session. But once finalists are identified to the Trustees, all of that process needs to occur in open session. I have attached an outline that we have prepared on the use of screening committees, for your information.

Furthermore, as noted in response to question 1, above, you can have an acting or interim director, who does not have the necessary certifications required by the state, for up to three years, without jeopardizing the Library's state aid.

Michele E. Randazzo, Esq.

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mrاندazzo@k-plaw.com

From: William Hewig
Sent: Monday, September 28, 2015 3:36 PM
To: 'Denise Dembkoski'
Cc: Michele Randazzo
Subject: RE: Library Trustee Questions for Town Council

On Mon, Sep 28, 2015 at 9:45 AM, Elizabeth Burton <ehb721@gmail.com> wrote:

Dear Selectman:

With due respect we, the Board of Trustees, request advice from Town Counsel for the following 6 questions. It is our hope these will help clarify the roles of the Trustees, Library Director, and Town Personal/Finance Director, to facilitate cohesive cooperation of all three components that are required for a Town Library for us to move forward to serve the community of Groveland. We are open to any and all advice from Town Counsel, not limited to these specific questions.

The Board of Trustee's by-laws can be found on the Town [webpage](http://www.grovelandma.com/Pages/GrovelandMA_Library/Library%20Trustee%20By-Law%202015.pdf) (at http://www.grovelandma.com/Pages/GrovelandMA_Library/Library%20Trustee%20By-Law%202015.pdf).

[Massachusetts Board of Library Commissioners \(http://mbhc.state.ma.us/\)](http://mbhc.state.ma.us/) provides [Trustee resources \(http://mbhc.state.ma.us/advisory/trustees/index.php\)](http://mbhc.state.ma.us/advisory/trustees/index.php) and handbook; and resources for Library Directors, including access to required Massachusetts State reporting documents; and a wealth of information for all who are involved with libraries in Massachusetts.

Questions were generated at an Open Meeting of the Board of Trustees on September 21st, 2015. Former Trustees L.LeBlanc, J.Close and A.Wilson Crockett have maintained their resignations from the Board and do not have any questions for Town Counsel. Former Trustee C.del Castillo had not expressed his intentions as of this meeting. Chair B.Burton contacted him once more through email to ask if he is interested in returning to the Board or had questions for Town Counsel and to date has not had a response.

Questions are:

1. In the absence of a Library Director who is the head of the Library? Who can hire staff?
2. According to Trustee Bylaws, Section 15.5, The Board shall appoint a Director who shall be the executive officer of the policies of the Board and shall have charge of the administration of the Library under the direction and review of the Board. The Library Director shall select and recommend appointment of employees to the Board of Selectmen, and shall be responsible for the proper direction and supervision of staff; for the care and maintenance of Library property; for the selection of books and other Library materials and maintenance of the Library's materials collection for the effectiveness of Library services to the public; and for the Library's financial operation within the limitations of the approved budget. The Library Director shall attend all Board meetings and shall advise the Board in Library matters, including making policy and budget recommendations. Our Board was told by the former Director, that the Personnel/Finance Director had given her approval for dramatic changes to the Library's staffing make up (changing 1 of 2 FT benefited positions from Adult services to Circulation Manager) without discussion of change to the Board. This change affects the operation of the library and how the library can meet the needs of the community. Was this change in their purview or should that have been discussed with the Board?

3. According to Bylaws, Sec.15.3, "The Board shall have care, custody and control of the Library holdings..." - with a director on a six-month probationary period (per Town policy), should the Director instruct/inform the Board or recommend to the Board?
4. If a Trustee brings an issue to the Chair and it is not being put on the agenda or addressed to the full board, what is the Trustee's recourse? Should individual Trustees bring issues to the attention of the entire Board or just the Chair?
5. What is the chain of command? Can the Town Personnel/Finance Director tell Staff and Trustees not to communicate with each other or the staff will face insubordination noted in their personnel file?
6. What is the process / implications of hiring an Interim Director?

If there are any additional questions that you think should be considered by Counsel please add them.

With the best of intentions and highest regards for serving the residents of Groveland,

The Board of Trustees of Langley-Adams Library Groveland, MA

Elizabeth (Beth) Burton (Chair)

Judith Ann McAnn (Vice Chair)

Laurel Puchalski (Secretary)

Barbara Gauvin (Treasurer)

Kathy Prunier (Trustee)