

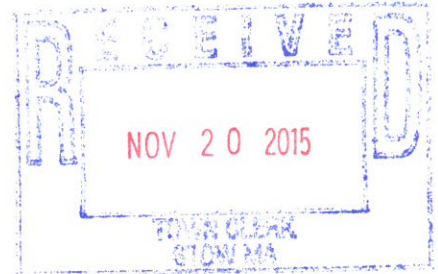
**Minutes for Randall Library Trustees Meeting**  
9-30-2015  
Randall Library

**Present:** Marianne Sharin (Chair) Bob Katz, Rick Lent, Barbie Wolfenden, Kathy O'Brien, Tim Reed and Melissa Fournier (Library Director)

**Absent:** Ed Grund

Marianne called the meeting to order at 7:31p.m.

**Public Comment:** None



**Secretary Report:** Marianne presented an email from Barbie to Kathy stating her concern about a possible unresolved issue about her proposed "Timeline" from the September 16 minutes. She requested that there be more emphasis on it and clarification about it. There was agreement that Barbie's request needed to be addressed. Marianne asked that the issue be addressed later in the agenda. Tim suggested that Barbie's email and ideas regarding the timeline, the committees and the proposed charter be added to the September 16 minutes. The September 16 minutes were accepted by unanimous vote following the amendment.

**Chairman's Report:**

- **Library Survey:** Bob presented the various samples for the survey. After review, the Board chose the dark blue printing. He also explained the timeline necessary for a Fall mailing. Three thousand surveys will be printed to be sent to every household in Stow. The expense is being provided by the Randall Library Friends Association and is expected to cost approximately \$1,000 in total.
- **Draft for Newspaper:** Rick presented a notice for the local newspapers regarding the survey. Other means of notifying the public about the survey were mentioned. Following a discussion of the mailing process, the final date for replies was extended to November 2nd.
- **Information on committee:** The Board returned to the Timeline referenced above. A clarification of composition of the "committee" resulted in agreement that there are actually two committees being discussed interchangeably. The BoT agreed that the first committee to be established would be for the renovation of the library. It would consist of five members: two Trustees, one member of the Randall Friends, one Finance Committee member and one member of the Conservation Trust. The purpose of this committee is only for the renovation of the historic part of the library. The second committee will be responsible for planning the future of the library. Its composition, designation and direction will be determined at a future meeting.

- Correspondence: Marianne shared correspondence she had received from the Commonwealth of Massachusetts, Public Records Division. She also shared the letter she sent to the patron who had sent the complaint. Marianne believes all information requested has now been provided and she will inform both the patron and the Public Records Division of this.

Barbie moved to adjourn and Rick seconded the motion. It passed unanimously.

Meeting adjourned at 8:46 p.m.

Next meeting is October 14, 2015.

Respectfully submitted,



Kathy O'Brien

Addenda: Copy of email sent to Kathy from Barbie  
Letter to patron  
Letter from Commonwealth, Public Records Division



Marianne Sharin &lt;librarytrustee2015@gmail.com&gt;

## Minutes

**Barbie Wolfenden** <wolfbarbie@verizon.net>

Mon, Sep 28, 2015 at 9:58 AM

To: Library Account &lt;kathycobrienlibrary@outlook.com&gt;

Cc: marianne Sharin &lt;librarytrustee2015@gmail.com&gt;, tim Reed &lt;randalltrustees@gmail.com&gt;

Hi Kathy,

As usual, the minutes are articulate and complete. Thank you - they are a lot of work to do.

One exception, however, that I believe is important enough to include in the minutes, and is an unresolved issue: that of the further discussion about the "Timeline" you have bulleted.

We did indeed discuss the composition of a "building group" which follows the pattern established in our earlier efforts to put a plan to the town. It was formerly comprised of members of various influential town groups, e.g., Finance, Selectment, etc. - people already connected with our town's government, and is touted by Bill Wrigley.

We also discussed the issue of a different and separate group, a "Town Planning Committee" (based on our work with the Bolton Library trustee). That group would be comprised of many people from the town - people not connected with the town's government but who care about the library - who would evaluate the survey responses and come up with a mission statement and charter - the governing direction to take with the library. The purpose of that group would be to give authenticity to future direction. Their product would be the basis for the library's future, unconnected with current government. The clearest example of their work would be to recommend either a new library or a renovation.

To me this is a crucial difference and one we as a Board should seriously consider. I don't think it's been articulated enough yet to the Board to take seriously in spite of Tim's concise expansion of my comments at our last meeting.

I think we need both. The "building group" would take up the execution of the "Town Planning Committee's" guidance, and do the great job it did before with our earlier warrant article.

Thanks,  
Barbie

— Original Message —

**From:** Library Account**To:** barbie wolfenden ; bob katz ; ed grund ; marianne sharin ; melissa fourmier ; rick lent ; tim reed**Sent:** Wednesday, September 23, 2015 4:19 PM**Subject:** Minutes

This email has been checked for viruses by Avast antivirus software.

[www.avast.com](http://www.avast.com)



**The Commonwealth of Massachusetts**  
William Francis Galvin, Secretary of the Commonwealth  
Public Records Division

Shawn A. Williams  
Supervisor of Records

September 21, 2015  
SPR15/462

Ms. Barbara K. Wolfenden  
Past Chair  
Randall Library Trustees  
380 Great Road  
Stow, MA 01775-2127

Dear Ms. Wolfenden:

I have received the petition of Robert Flynn appealing the response of the Randall Library Board of Trustees (Board) to his request for public records. G. L. c. 66 § 10(b); see also 950 C.M.R. 32.08(2). Specifically, Mr. Flynn requested a copy of statistical information regarding the Randall Library. Mr. Flynn also requested copies of performance evaluation documents for the Library Director.

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10(c); 950 C.M.R. 32.08(4). "Public records" is broadly defined to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any town of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26).

It is the burden of the records custodian to demonstrate the application of an exemption in order to withhold a requested record. G. L. c. 66, § 10(c); see also District Attorney for the Norfolk Dist. v. Flatley, 419 Mass. 507, 511 (1995) (custodian has the burden of establishing the applicability of an exemption).

***Board responses; Mr. Flynn's appeal***

On April 22, May 5, and May 29, 2015, you provided written responses to Mr. Flynn's requests, including responsive records, with the exception of the Director's evaluation for which you denied access, citing Exemption (c) of the Public Records Law. Mr. Flynn appealed the responses of the Board. In his petition to this office Mr. Flynn stated his concern that the Board

did not provide all existing responsive statistical information. Further, Mr. Flynn appealed the Board's withholding performance evaluations of the Library Director.

***Failure of the Board to notify Mr. Flynn of his right of appeal***

The Public Records Access Regulations (Regulations) state that a custodian of records must notify a requester of his administrative remedies in the event the custodian denies access to requested records. 950 C.M.R. 32.08(1). The Board failed to notify Mr. Flynn of this remedy when it denied to him access to the performance evaluation of the Director. The Board is advised that it must advise requesters of this administrative remedy in denying access to government records.

***Failure of the Board to explain whether responsive records exist***

The duty of a custodian of records to comply with requests for information extends only to records that exist and are in the custodian's custody. G. L. c. 4, § 7(26) (defining "public records" as those non-exempt materials made or received by a public employee); see also 950 C.M.R. 32.03 (defining "custodian" as the public employee with routine access to or control of public records). In its responses, while detailed, the Board failed to state definitively whether any additional responsive records exist. The source of records and how those records were used, while instructive, are not responsive to a request for government records.

***Response unclear with respect to withheld performance evaluations of Library Director***

The Board withheld the performance evaluations of the Director, citing Exemption (c) of the Public Records Law. G. L. c. 4, § 7(26) (c). With this denial the Board invited Mr. Flynn to attend the Board's December 2015 meeting for the next evaluation of the Library Director. While Exemption (c), applicable to, among other things, "personnel and medical files and information," may be applicable, the reference to an open session of the Board raises questions under the Open Meeting Law.

Given that an interpretation of the Open Meeting Law falls within the authority of the Office of the Attorney General (AGO) and not this office, I decline to provide a determination as to the status of performance evaluations of persons who may have been evaluated in an open session of a public body. It is recommended that Mr. Flynn and the Board contact the AGO for further assistance as to the public status of evaluation materials presented in an open session of a public body.

***Fees***

A custodian of records may assess a reasonable fee for complying with a request for public records. G. L. c. 66, § 10(a); see also 950 C.M.R. 32.06(2) (where cost of complying with



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a request for public records is expected to exceed ten dollars (\$10.00), custodian of records shall provide written good faith estimate). Absent specific statutory authority to the contrary, the fees to be charged for complying with requests for public records are established by the Public Records Access Regulations (Regulations). See 950 C.M.R. 32.06 (fees for public records). Under the Regulations, a custodian of records may assess a maximum fee of twenty cents (\$.20) per page for a photocopy of a public record and fifty cents (\$.50) per page for a computer printout of a public record. See 950 C.M.R. 32.06(1)(a).

In addition to the copying fee, the Regulations provide that in cases where search or segregation time is necessary a custodian of records may charge a pro-rated fee based on the hourly rate of the lowest paid employee who is capable of performing the task. 950 C.M.R. 32.06(1)(c). The Regulations define "search time" as the time needed to locate, pull from the file, copy and refile public records, and "segregation time" as the time used to redact data that is exempt from non-exempt material. 950 C.M.R. 32.03. The search and segregation fees must reflect the actual cost of complying with a particular request. G. L. c. 66, § 10(a).

It appears that the Board did waive some fees for the time to search for and provide responsive records. It also appears that the Board assessed a fee for copies of records at the Regulations' rate of \$.20 per page, albeit after the segregation of the records had been conducted. The Board is advised that it must provide an estimate to a requester prior to conducting a search and copying of records that will result in fees paid by the requester. This provides the requester the opportunity to review the estimate and determine how to proceed.

### *Order*

I find the Board has not provided a response that is in compliance with the Public Records Law. The responses provided did not state whether additional statistical information exists in the custody of the Board. Further, the Board assessed fees after the search and did not appear to provide an estimate in advance of that search.

Accordingly, the Library is hereby ordered, within ten (10) days of this order, to provide Mr. Flynn with a revised written response prepared in compliance with the Regulations, the Public Records Law and this administrative order. A copy of any such response must be provided to this office. It is preferable to send an electronic copy of this response to this office at [pre@sec.state.ma.us](mailto:pre@sec.state.ma.us). With respect to the status of the performance evaluations of the Director, I strongly suggest both Mr. Flynn and the Board contact the AGO for further assistance.

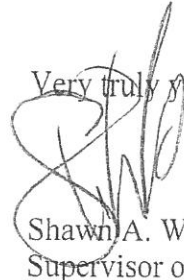
The Board is further advised that, in response to future requests, if it maintains that any portion of the responsive records are exempt from disclosure it must, within ten (10) days provide to a requester a written explanation, *with specificity*, how a particular exemption applies to each record. To meet the specificity requirement a custodian must not only cite an exemption,

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but must also state why the exemption applies to the withheld or redacted portion of the responsive record.

Very truly yours,

A handwritten signature in black ink, appearing to read "Shawn A. Williams". The signature is stylized and somewhat cursive, with a large initial "S" and "W".

Shawn A. Williams  
Supervisor of Records

cc: Mr. Robert Flynn  
Mr. William J. Wrigley, Town Administrator

Randall Library Trustees  
19 Crescent Street  
Stow, MA 01775

September 29, 2015

Dear Mr. Flynn,

I have received your letter dated September 22, 2015 as well as a letter dated September 21, 2015 from Shawn A. Williams, Supervisor of Public Records of the Commonwealth of Massachusetts addressed to Barbara Wolfenden.

In your letter there are 3 items where data has been requested;

1. "42838 pass through the doors of the Library in the past year and those people checked out nearly 140,000 items.
2. "its user numbers are growing faster than in any nearby towns with similar population numbers including those with new facilities." "visits to the Randall Library went from 37,000 in 2012 to over 44,000 in 2013."
3. "patron use jumped by 7858"

In my letter dated August 4, 2015, item 1 was addressed. My letter dated Sept. 10, 2015 addressed item 2. Item 1 and the first sentence in item 2 are being made clear to the community in a letter to The Stow Independent admitting erroneous data was provided.

In your letter dated September 22, 2015, you identified item 3 coming from a submission made to the Stow CPC. I have not been able to find any source documentation that can substantiate that figure.

To the best of my knowledge there are no additional responsive records.

Additionally, the Director's evaluation was requested in prior correspondence. That data has not been provided, based on Exemption (c) of the Public Records law. If you choose to pursue this data, you may appeal the Board decision to the Attorney General's Office.



Sincerely,

A handwritten signature in cursive script that reads "Marianne Sharin". The signature is written in dark ink and is positioned above the printed name.

Marianne Sharin

Chair, Randall Library Trustees

Cc: Mr. Shawn A. Williams, Supervisor of Records, Commonwealth of MA  
Mr. William J. Wrigley, Town Administrator, Stow