**MEMORNDUM**

To: Bryan Kaenrath, Town Administrator

From: Stephen M. Bennett

Date: August 15, 2019

Re: Renovation/Construction of the Public Library

You have requested that we opine as to which public body, the Select Board or the Library Trustees, has the authority to determine the design, renovation and/or construction of the Town’s public library.

Library trustees have the “**entire custody and management of the public library and all property of the town relating thereto,** including appropriations held pursuant to RSA 202-A:11 (III).” RSA 202-A:6. The New Hampshire Supreme Court has cited the phrase “entire custody and management of the public library” in support of its conclusion that the public library “is a separate and distinct entity from the town.” *Town of Littleton v. Taylor*, 138 N.H. 419, 422 (1994). The Legislature also authorizes and requires the library trustees to make a “separate budget request … for a new construction, capital improvements of existing properties.” RSA 202-A:11 (II). The library trustees, upon approval of the town budget, are also authorized to “[e]xpend all moneys raised and appropriated by the town … for library purposes.” RSA 202-A:11 (III).

The wording of these provisions strongly points to a legislative intent to invest all authority for managing and controlling the public library in the elected library trustees. “Entire” is defined as “having no element or part left out: Whole” and “complete in degree: Total.” Miriam-Webster Dictionary (on-line version, 2009). This exclusive control is extended to “all property in the town related to” the public library. The library trustees are responsible for determining the budget for renovating and/or constructing library buildings and, when appropriations are approved, it is the library trustees who are tasked with expending those monies. This language would prohibit the Select Board from directing the expenditure of appropriations designated for designing and/or constructing library buildings.

We conclude, based upon the above, that the planning, design and construction of library buildings lies exclusively with the library trustees, subject to the appropriation process.

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