

Policy Regarding the New Hampshire “Right-to-Know” Law

The Trustees of the Olive G. Pettis Library abide by New Hampshire RSA 91-A, commonly referred to as the “Right-to-Know” law. This law directs that the public has a right to attend all public meetings and to have access to the records of public government bodies. This document, which summarizes the key elements of the Right-to-Know law as it affects the Trustees, is based closely on the text of RSA 91-A. While this document does not include all the details specified in the law, the Trustees do abide fully with the provisions of the Right-to-Know law.

I. Trustee Meetings (RSA 91-A:2)

1. A Trustee meeting means the convening of a quorum of the Trustees for the purpose of discussing or acting upon matters over which the Trustees have supervision, control, or advisory power. A social, chance, or other encounter not convened for the purpose of acting upon such matters shall not constitute a meeting if no decisions are made regarding such matters. “Meeting” shall also not include consultation with legal counsel or the circulation of draft documents which, when finalized, are intended only to formalize decisions previously made in a meeting.
2. A meeting must have a “physical presence,” meaning that it must be held at a location where members of the public may attend, and at least one member of the Board must be present. A quorum of members must participate simultaneously. However, some members may participate remotely, if they are on a speaker phone or other device that enables all Board members and the public to hear all remarks at the same time.
3. Except in an Emergency, a quorum consisting of three (3) Trustees shall attend the location specified in the meeting notice as the location of the meeting. For this paragraph, an “emergency” means that immediate action is imperative, and the physical presence of a quorum is not reasonably practical within the period requiring action. The determination that an emergency exists shall be made by the chairperson or presiding officer of the Trustees and the facts upon which that determination is based shall be included in the minutes of the meeting.
4. All Trustee meetings are open to the public. In general, any meeting of the Trustees shall take place in an “open session,” which members of the public may attend. However, during an open session, the Trustees may vote to go into a “nonpublic session” under very specific circumstances, (discussed below under “Nonpublic Sessions”). The public is excluded from nonpublic sessions.
5. Trustees can allow members of the public to speak at meetings or they can deny requests for the public to speak. Members of the public can be ejected from a meeting if they talk when the Trustees have ruled against their participation. If a member of the public asks to be on the agenda and be allowed to speak at a meeting, the Trustees are under no obligation to agree to this. If Trustees do allow members of the public to speak, the length of time they can speak may be restricted. *(Note: In a public hearing, members of the public must be allowed to speak, but the length of the time they can speak may be restricted.)*
6. Except in an emergency, a notice of the time and place of each meeting, including nonpublic sessions, shall be posted at least 24 hours in advance on the Town of Goshen Webpage under Department/Olive G. Pettis Library and the Goshen Post Office bulletin board. For this paragraph, an “emergency” means a situation where immediate undelayed action is deemed to be imperative by the chairperson or presiding officer of the Trustees, who shall post a notice of the time and place of such meeting as soon as practicable and shall employ whatever further means are reasonably available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly spell out the need for the emergency meeting.
7. While the Trustee meeting is in open session, no vote may be taken by secret ballot.

8. During open sessions of the Trustee meetings, any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras, and videotape equipment. If the Board is recording its own meeting, it must let the public know that it is doing so
9. Minutes of all Trustee meetings shall include the names of members present, person appearing before the Trustees, a brief description of the subject matter discussed, final decisions, and the opening and adjournment time of the meeting. If a Trustee arrives late or leaves early, the arrival or departure time shall be noted in the minutes. All motions shall be recorded in the minutes, along with the names of the persons who made and seconded the motion, and the outcome of the vote. The number – but not the names – of members voting for and against a motion shall be recorded.
10. Draft minutes shall be promptly recorded and available for public inspection not more than five (5) business days after the meeting and shall be treated as permanent records, subject, however, to textual corrections adopted by vote of the Board. For this paragraph, a business day means the hours of 8 a.m. to 5 p.m. on Monday through Friday, excluding national and state holidays. Draft minutes shall be kept for the same period that approved minutes are kept. *(Note: The secretary's notes, taken at the meeting, do not need to be retained.)*
11. Final approved minutes shall be available for public inspection not more than five (5) business days from the time that they were approved. Final minutes shall be kept for a length of time that corresponds to the Town's policy for keeping minutes.

II. Nonpublic Sessions (RSA 91-A:3)

1. Only the following matters shall be considered or acted upon in a nonpublic session, from which the public is excluded (RSA 91-A:3, II, a, b, c, d, and e):
 - a. The dismissal, promotion, compensation, or disciplining of a Library employee, or the investigation of any charges against a Library employee.
 - b. The hiring of any person as a Library employee, and the evaluation of employees.
 - c. Matters which, if discussed in public, would be likely to adversely affect the reputation of any person other than a trustee.
 - d. Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are averse to those of the general community.
 - e. Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the Trustees or any individual Trustee.
 - f. Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more Trustees, even where legal counsel is not present.
 - g. Consideration of whether to disclose minutes of a nonpublic session due to a change in circumstances, although the actual vote on whether to disclose such minutes shall take place in a public session.
2. Procedures to be followed for a nonpublic session:
 - a. The nonpublic session must be on the notice that is posted for the meeting, citing the law and the reason from RSA 91-A:3, II (a, b, c, d, or e). (See Paragraph B.1, above.)
 - b. A motion to enter nonpublic session shall be made in open session and shall state the specific reason under RSA 91-A:3, II (a, b, c, d, or e). The vote on any such motion shall be by roll call and shall require the affirmative vote of the majority of members present. *(Note: This procedure shall be followed even if no one other than Board members is present.)*
 - c. If the matter to be discussed in a nonpublic session concerns personnel, and the person to be discussed wants the meeting to be public, then it shall be public.
 - d. Alternate Board members shall not participate in a nonpublic session unless a regular board member has been absent for an extended period or is expected to be absent for some future period.
 - e. Discussion in the nonpublic session shall be limited to the specific area of the motion.

- f. Minutes of the nonpublic session shall be kept and shall include all the information required for public session minutes, plus, if any votes are taken, information that would allow the reader of the minutes to discern how each Trustee voted. Required under RSA 91-A:3, III.
- g. Trustees must vote in a meeting on whether to unseal minutes. If minutes involving the consideration of acquisition, sale, or lease of real or personal property are sealed, the board is required to vote to unseal them "as soon as practicable" after the transaction has closed or the board has decided not to proceed with the transaction. See RSA 91-A:3, III. As of 1/1/2022 (but not for any meetings held before that date), each time the Board votes to seal minutes of a nonpublic session, they must add it to a running public list which includes the date/time of meeting, the specific exemption under RSA 91-A:3, II which was the basis for the nonpublic session, the date on which the board voted to seal the minutes and the date of any subsequent vote to unseal them. The list must be made available to the public "as soon as practicable" after the meeting.
- h. Voting between meetings is not allowed under RSA 91-A. Communications outside a meeting shall not be used to circumvent public deliberations and voting.

III. Access to Trustee Records (RSA 91-A:4)

1. "Governmental records" (or "Trustee records") means any information created, accepted, or obtained by, or on behalf of, the Trustees, or a quorum thereof, in furtherance of its official functions. This includes any written communication or other information, whether in paper, electronic, or other physical form, received by a quorum of the Trustees in furtherance of its official function, whether at a meeting or outside a meeting. Email messages, text messages, and voice messages received at the Library are all considered to be public records. The term "governmental records" includes the term "public records." (RSA 91-A:1-a)
2. Every citizen has the right to inspect all governmental records in the possession, custody, or control of the Trustees, including minutes of meetings, and to copy and make memoranda or abstracts of the records or minutes, except as prohibited by RSA 91-A:5 (see below under "Exempt Records"). For this paragraph, "to copy" means the reproduction of original records by whatever method, including, but not limited to, photography, photostatic copy, printing, or electronic or tape recording.
3. Records of any payment made to a Library employee or to the employee's designee, paid in addition to regular salary and accrued vacation, sick, or other leave, shall immediately be made available without alteration for public inspections. All records of payments shall be available for public inspection notwithstanding that the matter may have been considered or acted upon in nonpublic session.
4. The Trustees shall keep and maintain all governmental records in its custody at the Library in an accessible place.
5. Trustee records that are created or maintained in electronic form shall be kept and maintained for the same retention or archival periods as their paper counterparts.
6. A Trustee record in electronic form shall no longer be subject to disclosure after it has been initially and legally deleted. For the purposes of this paragraph, the electronic record shall be considered to have been deleted only if it is no longer readily accessible to the Trustees themselves. The mere transfer of an electronic record to a readily accessible "deleted items" folder or similar location on a computer shall not constitute deletion of the record.
7. The Trustees shall, upon request for any governmental record reasonably described, make available for inspection and copying any such record within its files when such records are immediately available for such release. If the Trustees are unable to make a record available for immediate inspection and copying, it shall, within five (5) business days of the request, make such record

available, deny the request in writing with a statement of the specific exemption authorizing the denial of access and a brief explanation of how the exemption applies to the record withheld, or furnish written acknowledgement of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied.

See RSA 91-A:4, IV(c).

8. If a computer, photocopying machine, or other device maintained for use by the Trustees is used to copy a requested record, the person requesting the copy may be charged the actual cost of providing the copy. This provision shall not exempt a person from paying any fees otherwise established by the Trustees for obtaining copies of governmental records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.
9. Trustees are not required to compile, cross-reference, or assemble requested information into a form in which it is not already kept or reported.
10. Trustees or Library employees shall not ask why a request for information is being made.

IV. Exempt Records (RSA 91-A:5)

The following Trustee records are exempted from the provisions cited above under "Access to Records"):

1. Records pertaining to internal personnel practices; confidential or financial information; personnel, medical, library user, and other files whose disclosure would constitute invasion of privacy. Note that the addresses and telephone numbers of library users or any other persons are not considered to be governmental records and should never be released.
2. Any notes or other materials made for personal use that do not have an official purpose, including, but not limited to, notes and materials made prior to, during, or after a Trustee meeting.
3. Preliminary drafts, notes, memoranda, and other documents not in their final form and not disclosed, circulated, or available to a quorum of the Trustees.
4. In deciding whether the release of any record would constitute an invasion of privacy, the following three-part analysis shall be conducted: 1. Is there a privacy issue? 2. Is release in the public interest? 3. What balance should there be between these? This analysis applies to a patron's borrowing record, among other things.

VI. Knowing Your Own Rights

1. The Right-To-Know law gives the public access to public records so that they may know how governmental agencies are conducting their business.
2. If Library employees feel that inappropriate requests are being made, they should immediately report this to the Trustees. If Trustees feel that inappropriate requests are being made, they should immediately consult with the Town Attorney for legal advice on how to proceed.