

**Minutes of the Regular Meeting of the
Alpena County George N. Fletcher Public Library
Board of Trustees**

Call to Order: A meeting of the Alpena County Library Board of Trustees was called to order on Wednesday, April 17, 2024, at 4:01 pm. by President Joseph Garber.

Present:

Board of Trustees: Joseph Garber, Dustin Budd, Michelle Cornish, Lauren Mantlo, Quintin Meek

Staff: Debra Greenacre, Jessica Luther, Beth DeCaire

Friends: Diane Guigar Pilgrim

Approval of Agenda: It was moved by Cornish with support from Mantlo to approve the agenda as presented. The motion passed.

Review and Approval of Minutes: It was moved by Budd with support from Cornish to accept the minutes from the March 20, 2024, regular meeting and April 3, 2024, special meeting. The motion passed.

Financial Reports: The Financial Reports were reviewed. Garber directed it to be filed as presented subject to final audit.

Review and Approval of Bills: It was moved by Mantlo and supported by Budd that both sets of bills as presented be approved. The motion passed.

Director and Leadership Team Report: The written report was reviewed. Greenacre explained that there have been thefts of the battery packs operating the automatic soap dispensers in the public restrooms. Luther gave an overview of upcoming programs.

Friends of the Library Report: Guigar Pilgrim reported that the Friends of the Library Board will be electing officers at their May 1, 2024, meeting and working on fundraising ideas. She shared that they are hoping to open a year-round used bookstore in June.

Public Comment:

Dorothy Boyk, Maple Ridge, stated that the American Library Association elected a Marxist as their President and ALA leadership is encouraging the grooming of young children. She suggested that the professional library staff be terminated and replaced with minimum wage workers. She added that she will not vote to fund the library.

Mark Hunter, Alpena, shared that he is disappointed with the Board of Trustees' Bylaws. He stated that he looked into the placement of the title *All Boys Aren't Blue* at other libraries in the state and found that some had it in the adult section and others in the YA section. He asked what the selection process was for joining the library's Teen Advisory Board and mentioned that when he was a board member, he had asked that members of the group present at a board meeting.

Shaelyn Lampinen, ACC student, stated that books like *All Boys Aren't Blue* are important for teens experiencing difficult life situations. She asked if the book would have been an issue if the characters had been heterosexual.

Julie Byrnes, Alpena, read from *All Boys Aren't Blue* and stated that a book like this would not help someone experiencing incestual assault. She stated that publishers should not be determining what audience books are appropriate for and that librarians are not needed for a library if that is the case.

Abigail Platt, ACC student, stated that YA literature fills a necessary role in reflecting diverse life experiences and a wide range of themes. Ultimately, it is up to the reader to determine their maturity level when reading about these experiences and themes. She added that harmful information and images can be found anywhere but books are a safe place to discover these themes.

Nycki Cuddie, Alpena resident and educator, stated she spends her days with kids in grades 6-12, she emphasized that they have access to the internet and it is the job of a parent to monitor their children, not the library.

Jen Myers, Presque Isle County, requested that regulations be put into place on the placement of books within the collection and the use of a ratings system. She asked how she can submit a question to the board and stated that she had filed appeals for the reconsideration of two books, *It's Perfectly Normal* and *All Boys Aren't Blue*.

Kaitlyn Moffat, Alpena, asked that there be a healthy conversation about what materials are coming in and out of the library and how the community can assess the content. She asked what evidence there was to support the benefits of reading books like *All Boys Aren't Blue* for survivors and stated that in her professional opinion as a mental health care professional, it would likely cause secondary trauma.

Dr. Donald Spaeth stated that he felt that some of the library trustees are uncomfortable with the American Library Association. He added that exposure to sexual content should not happen before puberty so as not to interfere with brain development. He provided Garber with additional petition signatures.

Molly Stepanski, Alpena business owner and Alpena Public School parent, asked the trustees why a small group of people should be allowed to dictate what is available in the library and where. Stepanski shared the verbiage of an online petition requesting that the board follow the guidelines set forth by ALA, the

Michigan Library Association, and the library profession. She stated she had 600 signatures on the petition.

Sarah Waters, Alpena, stated she agreed with Stepanski's statements and delivered a letter to the board.

Nonie Muller, Alpena, shared that she was a retired registered nurse working in mental health care. She stated that mental health issues cannot be solved by reading a book. She added that the members of the community pay for the library and want a say in what the library does. They would like to know what all of the policies and procedures are for the library.

Old Business:

- A. Millage:** The Board of Trustees held a special meeting on April 15, 2024, to approve new ballot language requesting a renewal of the .7462 mill for ten years. The ballot language will be presented to the Alpena County Commissioners on April 23, 2024.

New Business:

- A. Community Foundation Funds Request:** A resolution was presented authorizing Greenacre to request \$3,190 from the Community Foundation Fund for the purchase of a book bike. It was moved by Cornish with support from Mantlo to approve the resolution. The motion passed. A signed copy of the resolution is attached to the minutes.
- B. Unauthorized Agenda Addition:** Budd read from the State of Michigan's Oath of Office for public officials. He stated that he wanted to be clear that there is no requirement for him to pledge an oath to the American Library Association or the Michigan Library Association.
- C. Presentation Clare Membiela, Library Law Consultant, Library of Michigan:** Membiela presented on the legal and fiduciary responsibilities of the Library Board of Trustees and Library staff in terms of material challenges and the relocation of items. She advised the board to consult with their lawyer before making any decisions regarding the relocation of an item. A memo was provided to the trustees. A copy of the memo is attached.

(Meek arrived at 5:17 pm)

- D. Material Reconsideration Request Appeal:** The Board of Trustees received an appeal to the January 9, 2024, decision by the Library's Reconsideration Committee to not relocate the book *All Boys Aren't Blue* from the Teen/YA Collection to the Adult Collection. Meek stated that he did not think there was anything within the collection guidelines that indicate the book should be moved. Cornish agreed with Meek and shared that it is the right of a parent to determine what their child can and cannot read. She does not agree with moving the book. Budd stated that he was reviewing the timeline for the material challenge and felt strongly that one of the steps had been missed and needed to be revisited since a one-on-one meeting with the requestor had not been held. Luther replied that a response had been sent to the requestor and no meeting had been requested. Luther requested a closed session be held since there was an implied complaint that library processes were not followed. Budd asked that the requestor be allowed to join the closed session. This was denied. Greenacre requested a closed session. This was denied. Cornish suggested that the board seek legal advice before moving any further on this issue.

Budd moved with support from Meek that Greenacre and two board members meet with the requestor and members of the group they are representing within the next 7-10 days. The motion passed with Mantlo in opposition and Cornish abstaining.

Board Comment:

Garber requested that the Policy Committee meet soon.

Adjournment: It was moved by Meek with support from Cornish to adjourn the meeting. Garber declared the meeting adjourned at 6:37 pm. The next regular meeting will be Wednesday, May 15, 2024, at 4:00 pm.

Respectfully submitted,



Michelle Cornish
Secretary



Jessica Luther
Recording Secretary



Book Relocation Under the 1st & 14th Amendments of the U.S. Constitution.

This information is intended as a tool to assist in clarification and decision making for Public Library Directors, Boards and other officials who work with public libraries. It is not intended as legal advice. Libraries should consult with their library attorneys when determining a plan or policy for their libraries

It is well established that public libraries have a unique and binding relationship with the First Amendment of the Constitution of the United States. Michigan public libraries have an additional binding relationship with the Michigan Constitution, which guarantees library access to all of its residents.

The First Amendment of the United State Constitution guarantees six (6) different rights, including the Freedom of Speech, and the Right to petition the government.

Within the right of Freedom of Speech are 2 additional rights assigned through interpretations of the free speech right by Federal courts – especially the U.S. Supreme Court (which has the unique responsibility of constitutional interpretation, and which decisions are binding on all states). These additional rights are:

- The Right to Give and Receive Information (under *Martin v. Struthers* Ohio)
- The Right to access to a Public Library (under *Kreimer v Morristown*)

It is these additional rights that add the additional ties that bind public libraries so closely to the First Amendment – and which differentiate libraries' responses and duties under the First Amendment from those of other government entities. The acknowledgement and imposition of these rights require great deference to freedom of speech and access to information, as well as to the privacy of people utilizing the library's services. These duties, responsibilities and deference are especially applicable to the manner in which a library chooses and maintains its collection.

A public library's collection and decision making with regards to the information they provide must be compatible with the library's Collection Development Policy, the library's budget, and the physical space and technology limitations of the library. In addition, the library, as public entity answerable to the First Amendment (as well as to the community that funds the library), must reflect its community as a whole, as well as wider issues and information both historical and current representing a variety of perspectives and stances.

A public entity's responsibility under the First Amendment includes the need for Neutrality. In other words, it is well established in U.S. law that government entities may not make decisions based on the content or viewpoint of speech. "[T]he First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content." Police Department of Chicago v. Mosley (1972). This means that a governmental entity (such as the Governing Board of a Public Library) may not make a decision (such as whether to relocate a book), based upon viewpoints expressed by the contested speech – OR based upon the personal viewpoints of the government entity (OR making the decision because of pressure applied by a vocal minority).

"One of the reasons that our constitutions have wisely precluded sovereign interference with an individual's right to read, think, speak, observe, and pray as he desires is the fact that these concepts are so arbitrary and diverse that they are foreign to standardization and any possible test of right wrong. Government has no legitimate interest in controlling or tabulating the human mind nor the fuel that feeds it. Todd v. Rochester Community Schools, 41 Mich.App. 320 (1972)

In recent years, current events have inspired additional court opinions that build upon the decisions and established law above, and which offer embattled and undecided library boards and other government officials support in what is often complex and uncomfortable decision making.

When discussing the possibility of relocating materials, (as opposed to removing them from the collection), the First Amendment issue is not only the influence of personal viewpoint or bias on the decision. First Amendment law also addresses placing obstacles in the path of information for someone who wishes to receive it.

The U.S. District Court for the Western District of Arkansas determined in Counts v. Cedarville School District, 295 F.Supp. 2d 996 (2003) that restricting access to a book (by requiring parental permission and signature) *"imposed a burden on student's First Amendment right to access to books..."* *The right to read a book is an aspect of the right to receive information and ideas, an "inherent corollary of the rights of free speech and press that are explicitly guaranteed by the Constitution."* Counts, pp 999. (citing Board of Education v. Pico, 457 U.S. 853, 102 S.Ct. 2799, 73 L.Ed.2d 435 (1982)).

Sund v. City of Wichita Falls, 121 F.Supp. 2d 230, N.D. TX, 2000 is one of the most commonly cited opinions on the issue of book removal. This litigation involves a city resolution permitting 300 designated citizens the right to censor library materials by removing books from the Childrens section to the adult section. Library patrons sued to prevent the enforcement of the resolution. The court ruled *"Although, under the Altman Resolution, petitioned books are not banned entirely from the Library, the burdens on Plaintiffs' First Amendment rights imposed by the Resolution are nonetheless constitutionally objectionable.* Even where a regulation does not silence speech altogether, the Supreme Court has given *"the most exacting scrutiny to regulations that suppress, disadvantage, or impose differential burdens upon speech because of its content."* Turner Broadcasting, Inc. v. FCC, 512 U.S. 622, 641, 114 S.Ct. 2445, 129 L.Ed.2d 497 (1994) (emphasis added). *"In short, the Sund court ruled that relocating books in a public library because of the content of those books is an unconstitutional burden and restraint on readers' First Amendment right to information. " "Speech that is neither obscene as to youths nor subject to some other legitimate proscription cannot be suppressed solely to protect the young from ideas or images that a legislative body thinks unsuitable for them."* Sund, pp.552.

Little v. Llano County, 2023 WL 2731089, 22CV424, W.D. TX. (2023) is one of the most recent opinions discussing book relocation, as well as removal. public library patrons suing the library board for removing and relocating books because of the content and viewpoint of those materials. With respect to the relocation of the materials, the court ruled that moving physical volumes to a new location and making them difficult to find (the library had removed the books from the catalog as well), supports the assertion that this presents a burden to patrons' first amendment right o access to information. *"The physical books at issue*

in this case, although “available” for checkout are hidden from view and absent from the catalog. Their existence is not discernible to the public, nor is their availability. An injury exists because the library’s “in-house checkout system” still places “a significant burden on Library Patrons’ ability to gain access to those books.”[citing] Sund, 12 F. Supp. 2d at 534. Little,pg.6

Another issue addressed in these and other opinions involving specific types of books is that suppression of this material due to viewpoint or content restriction could have an added Fourteenth Amendment issue under the U.S. Constitution (as well as issues under the Michigan Elliott Larsen Civil Rights Act, and Suppression of materials because of issues of race, gender, and other protected classes violates the equal protection clause of the 14th amendment, which guarantees that all people have a right to equal protection of the laws (the right to non-discrimination). Intentionally suppressing materials because of viewpoints related to protected classes (race, age, gender, etc.) is likely a violation of a groups’ civil rights and right to equal protection under the 14th amendment and

Given the overwhelming amount of binding and persuasive legal authority that protects library patrons’ right to access books and other materials on topics of their choosing , what are the best options for public library boards to manage requests for relocation?

- Have a clear Collection development policy that specifies the resources used by librarians to evaluate and choose materials and ensure quality and age-appropriateness.
- The Collection Development policy should clarify that the library’s collection is intended as a resource for the entire community and as such it is important that the collection reflects all of the community. As a result, not every item will be to every patron’s taste or sensibility.
- Have clear patron policies that affirm the right of patrons to access any information of their choosing, and which emphasizes the importance of the parents’ role in guiding their children’s reading choices. Except where required by law, the library will not interfere with parental influence by regulating what minors can access in the library. *“Moreover, if a parent wishes to prevent her child from reading a particular book, that parent can and should accompany the child to the Library and should not prevent all children in the community from gaining access to constitutionally protected materials.” Sund, pp551.*
- Public libraries have broad discretion to choose materials for their communities. In order for an item to be illegal (Obscene), it must be judged so by a court of law in the library’s jurisdiction. The opinions of individuals are not determinative as to whether something is “obscene.” In Michigan, [MCL 722.676](#) exempts library personnel from prosecution for disseminating sexually explicit content in the course of their duties.

In Sum, As with every other policy the library implements and enforces, the maintenance of the collection and disposition of the materials must occur in a neutral- non-viewpoint based manner. Libraries may not remove, relocate, hide, weed, or otherwise interfere with the access of materials solely on the basis of the content of those materials. To do so is infringing on the rights of all patrons.

A note regarding a library’s responsibility and duty towards children:

Public libraries in Michigan are municipal entities. They are not schools, nor are they private non-profits. They are public agencies just like other municipal entities. Public entities that are not schools have no special responsibilities towards children other than the standard duties of care and public safety. This means that Public libraries do not have the duty to the legal authority to dictate to children what they can or cannot read – or prevent borrowing of a certain item based on viewpoint or a protected class (including age). Where schools have been legally bestowed with “in Loco Parentis” status, public libraries have not been. This means that public libraries have no legal authority over children – any more than they have legal authority over adults. A public library must provide a child with the same constitutional protections it provides other patrons – within the limits of the law (such as mandated computer filtering and physical facility safety). It is not a public library’s legal duty to ensure that a child is reading, viewing or borrowing material that either the library staff or the parent feels in appropriate. Schools have this authority because parents are required to place their children in school. Because of this mandatory placement, schools are required to ensure that the child is cared for and monitored as the parent would. Public Libraries do not have this authority.

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CDM/2024