

Municipal Trustees Training Workshop
2023



Trustees 101- Governance and Right-to-Know

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Today's Presenters



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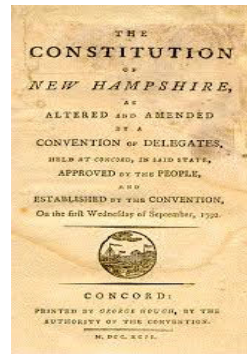
The Right-to-Know Law

[RSA Chapter 91-A](#)

PART I, ARTICLE 8 OF THE NH
Constitution: Government ...
should be open,

SECTION 1 OF RSA 91-A:

The purpose of this chapter is to ensure both the greatest possible public access to the **actions**, **discussions** and **records** of all public bodies, and their accountability to the people.



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RSA 91-A:2, II:

**RSA 91-A is
just the
floor**

If the rules of procedure of any public body require a broader public access to official meetings or records then those provisions will govern.

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What is a Public Meeting?

RSA 91-A:2



Quorum



Public body



Convenes so that they can communicate contemporaneously



To discuss or act upon a something over which the public body has supervision, control, jurisdiction, or advisory power.

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What is not a "Meeting"?

(The so-called "non-meeting")

RSA 91-A:2, I



Social or other encounter



Collective bargaining



Consultation with legal counsel



Political caucuses



Circulation of draft documents

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Meeting v. Hearing



Meeting

To conduct body's business
RSA 91-A
Open to public
No right to speak



Hearing

To hear public/certain people on issue
91-A "plus"
Open to public
Right to speak

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What are the public meeting requirements under RSA 91-A?



PUBLIC
NOTICE



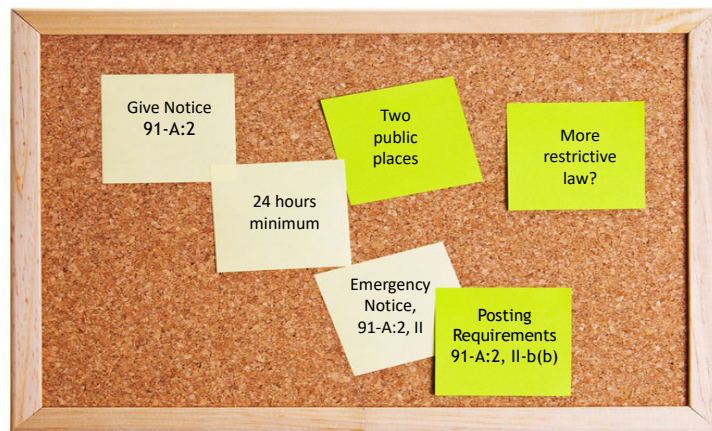
OPEN TO THE
PUBLIC



MEETING
MINUTES

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Public Notice



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Public's Right of Access

- ▶ Open to the public, RSA 91-A:2, II
- ▶ Public's right to record, etc.
- ▶ No secret ballot voting

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Avoid Temptation to Use Inaccessible Technological Options



Remember that fundamental principal of RSA 91-A is to allow the public access.



Text messages, emails, and other electronic means of communication which excludes the public should not take the place of publicly accessible meetings.



Remember RSA 91-A:2-a, don't use other means of communication to circumvent the law

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Meetings Minutes



- Minimum required contents

Made available within 5 business days

Posting: Approved minutes need to be posted

- Draft v. Approved

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Remote (Electronic) Meeting Participation,

RSA 91-A:2, III

- Public body *may* allow (adopt a policy!)
- Personal attendance “not practical” (in minutes)
- ✓ Quorum *present*
- Everyone can hear and be heard
- Identify anyone else present
- All votes by roll call

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Availability of Governmental Records

- ▶ Governmental records must be available during the regular business hours of the public body or agency.
- ▶ “Each public body or agency shall keep and maintain all governmental records in its custody at its regular office or place of business in an accessible place.” RSA 91-A:4, III
- ▶ RSA 41:58 – Public records must be stored at office of the political subdivision.
- ▶ RSA 41:61 – Public records may not be loaned or removed except when discharging public duties.

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Archive Paper Records in PDF/A?

Any municipal records in paper form listed in RSA 33-A:3-a may be transferred to electronic form (PDF/A Format ONLY), and the original paper records may be disposed of as the municipality chooses. RSA 33-A:5-a

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Beyond RSA 91-A

- ▶ Preparation = more effective meetings
- ▶ Do you have rules of procedure?
- ▶ Agenda
- ▶ Circulate materials in advance
- ▶ Read packet, think about comments and questions in advance
 - ▶ No discussions prior to/outside meeting!



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Rules of Procedure: Basic Content

- 📅 Regular Meeting Day, Time & Location
- 👤 Annual Election of Officers
- 👤 Authority of Presiding Officer/Chair
- 👤 Duties & Privileges of Board Members
- ✓ Quorum & Voting
- 👤 Agenda for Board Meetings

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Rules of Procedure: Basic Content (cont'd)

- 📅 Order of Business at Board Meetings
- 👤 Meeting Procedure and Decorum
- 👤 Procedures for Public Hearing, Public Comment
- 👤 Right-to- Know Law
- ✓ Committees/Liaisons/Appointments
- 📅 Organization is key

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Public Comment



No right to speak in meeting, unless you give it to them (remember hearings are different)



Establish & explain rules, apply consistently



First Amendment: Many restrictions are not acceptable!



Maintain control & order Removal?

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Conducting the Meeting



BE AND
START ON
TIME



CHAIR'S
RESPONSIBILITIES



APPLY RULES
OF
DECORUM
EVENLY



ELECTRONIC
MEDIA DURING
MEETING



DON'T FORGET
THE MINUTE-
TAKER

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Meeting Decorum



All eyes are on you



Pay attention!



Electronic media use during meetings

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Electronic Communication



- Avoid substantive discussions via email
- Circumventing spirit and intent of RSA 91-A
- Less than a quorum communicating outside meeting
- “Reply All”
- Emails are governmental records

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Riggins' "Don'ts"



Don't mingle with friends, acquaintances, unknown applicants or objectors in the audience before the meeting & during a recess period.



Don't indicate by word or action how you intend to vote during the portion of the hearing devoted to presentations.



Don't interrupt a presentation until the question period, except for very short and *necessary* clarifying remarks or queries.



Don't use first names in addressing *anyone at all* during the course of the hearing.



Don't try to make the applicant or any other person appearing before you look like a fool by the nature of your questions or remarks.

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Riggins' "Do's"

Do rotate the seating in some regular manner each successive meeting to prevent a "strong" member from gradually dominating a "weak" member.

Do sit down and have a long soul-searching session with yourself if you find you are consistently "out in left field," that no one seems inclined to second your profound motions, and that you are quite often a minority of one.

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Dealing with “Difficult” People



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Roll Call vs. Recorded Vote



Roll Call Vote Example



“Byrnes: yes; Buckley: yes;
Johnston: no. Motion passes.”

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Roll Call vs. Recorded Vote



Recorded Vote Examples



“Motion passes 2-1, with Johnston voting in the negative.”



“Motion passes unanimously.”

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Governance For Trustees

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Trustees of Trust Funds

- ✓ Custodians of the town's perpetual care funds, charitable trusts, private donations, and capital reserve/expendable trust funds.
- ✓ Act in a fiduciary capacity and make the decisions regarding expenditure from these funds based on the wishes of the donor for privately donated funds.
- ✓ Release capital reserve funds and expendable trust funds to the appropriate government officials upon request.
- ✓ Make decisions on how these funds are to be invested, based upon the statutes and the investment policy adopted by the Trustees.

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Election - Incompatibility

- ▶ 3 elected members of the Trustees of Trust Funds unless the town meeting elects to have 5 trustees.
- ▶ The term of each trustee shall be 3 years with terms staggered. In cities trustees are chosen and hold office for a term as provided by city ordinance.
- ▶ Vacancies are filled by the select board for the remainder of the unexpired term.
- ▶ Trustees may recommend the names of no more than 2 persons who may serve as alternate members on the board. The alternate members shall be appointed to one-year terms.

[RSA 31:22](#)

- ▶ No trustee of trust funds shall at the same time hold any of the following offices: selectman, treasurer, moderator, collector of taxes, auditor, head of the town's police department on full-time duty or highway agent.

[RSA 669:7](#)

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Audit and Publication of Reports of Trustees

- ▶ The accounts of the trustees shall be audited annually by the auditor of the town, the securities shall be exhibited to the auditor, and s/he shall certify the facts found by his audit and the list of all securities held. The trustees shall submit to the auditor a detailed statement of the securities held by them and the particular trust to which they belong, and exhibit to him a statement of all receipts and expenditures with proper vouchers.
- ▶ The legislative body of a town may authorize the printing of the reports of the trustees and of the auditor in summary form rather than in full detail in the annual town report.
- ▶ In a year in which a town accepts gifts, legacies and devises for any trust created, the trustees and auditor shall print the names of the donors and the value of such gifts, legacies and devises at the time of donation in the annual town report.

[RSA 31:33](#)

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Records & Expenditures

- ▶ Trustees shall require a voucher before making any disbursement of funds from said trusts.
- ▶ Trust funds, or the income thereof, to be expended, shall be paid to trustees or agents of the town established to carry out the objects designated by such trusts, and, if there be no such trustees or agents, then such expenditures shall be made by the full board of town trustees.
- ▶ The trustees shall keep a record of all trusts in a record book or maintained in electronic format, which shall be open to the inspection of all persons in their town.
- ▶ The bookkeeper of the trustees shall receive such compensation as the town meeting may determine.

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Adoption of Investment Policies

- ▶ Trustees of Trust Funds and Library Trustees (those that hold the principal of their trust funds) must adopt an investment policy and review it annually pursuant to the applicable provisions of [RSA 31:25](#), [RSA 34:5](#) (cities), [RSA 35:9](#) (towns) RSA 202-A:23 (libraries). A copy of this policy must be filed with the Attorney General.

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Investment Policy

The choice of an investment objective for a particular fund and the eventual choice of the types of securities used to meet these objectives will be driven by:

- ▶ A need for safety of the funds,
- ▶ The ability to use the funds when needed (liquidity), and
- ▶ The return expected given the safety and liquidity of the investment.

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Professional Banking and Brokerage Assistance - RSA 31:38-a

- ▶ Trustees may hire the trust department bank or banks brokerage firm to assist in the management and investment of trust fund resources or to provide bookkeeping services.
- ▶ They may also place securities in the nominee name of a trust department or departments or a brokerage firm to facilitate transfers for such securities.
- ▶ Trust fund records maintained by any bank or brokerage firm must be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration.
- ▶ Such records shall be municipal records and property.
- ▶ Any professional banking and brokerage expenses incurred shall be charges against the trust funds involved and shall be identified and reported in the annual report of the trustee or trustees as expenditures out of trust funds.

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Library Governance

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Libraries are Governed by Library Trustees

RSA 202-A:6, :11

- ▶ Entire custody and management of the public library and of all the property of the town relating thereto, including appropriations
- ▶ Adopt bylaws, rules, and regulations
- ▶ Prepare an annual budget
- ▶ Expend all moneys raised and appropriated for library
- ▶ Expend income from all trust funds for library purposes
- ▶ Appoint a librarian
- ▶ Appoint other employees, in consultation with the librarian, and determine their compensation and other terms of employment

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Library Trustees Basics

Elected, three-year terms

Odd number of trustees

Up to 3 alternates (1-year terms)

• RSA 202-A:6, :10; RSA 669:16

No compensation, RSA 202-A:14

City Library Trustees, RSA 202-A:8

Special Library Trustee, RSA 202-A:7

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Trustees' Discretionary Powers RSA 202-A:13



Pay for library courses and professional development



Allow nonresidents to use library



Deposit money with state to pool purchasing with state library

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Gifts, Donations, & Trust Funds

RSA 202-A:4-c authorizes town meeting to vote to allow library trustees to apply for, accept and expend, unanticipated money from a governmental or a private source.

RSA 202-A:4-d authorizes town meeting to vote to allow library trustees to accept gifts of personal property (not money or real estate).

RSA 2020-A:22 - :23 authorizes library trustees to accept gifts of trusts, which are held by the trustees of trust funds, unless the trust specifies that the library trustees can hold and manage it.

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Annual Reports Required

RSA 202-A:12: Annual Report

- Receipts
- Expenditures
- Property in trustees' care/custody
- Bequests/donations
- Number of books
- Number of borrows and statement on use of library
- (Must also submit report to state library)

RSA 202-A:12-a: Report to Attorney General

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Budget Process

- ▶ Library trustees prepare budget request in accordance with RSA 202-A:11, II
- ▶ Library trustees submit budget request to select board or budget committee, if any, pursuant to RSA 32:5
- ▶ Select board and/or budget committee may modify any budget requests during the budget process, meaning that a different amount may be placed upon the warrant.



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Public Librarian



“Sufficient breadth & depth to give leadership in the use of books and related materials”



Appointed by trustees



Term of office, time of appointment



Administrative head of library



Recommends appointment of other employees

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Cemetery Trustees Governance



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RSA Chapter 289: Overview

- ▶ Requires municipalities to have either a public cemetery, or contract with another municipality or a nonprofit entity to provide a suitable cemetery. RSA 289:2
- ▶ Establishes standards on where cemeteries may be located in relation to other land uses and highways. RSA 289:3
- ▶ Requires that municipalities provide sufficient funds for public cemeteries. RSA 289:4
- ▶ Designates an elected board of cemetery trustees, or other elected or appointed officials to manage municipal cemeteries. RSA 289:6
- ▶ Provides for the management of historic, neglected and abandoned burial grounds. RSA 289:14-a - :14-b; RSA 289:19 - :21.

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Who Controls Cemeteries?

- ▶ Default is elected board of cemetery trustees pursuant to RSA 289:6.
- ▶ Town Manager - towns may vote by separate warrant article to designate Cemetery Trustee duties to the Town Manager:
 - ▶ “Shall we discontinue the board of cemetery trustees by delegating their duties and responsibilities to the town manager?” If the majority votes in the affirmative, then the discontinuance shall take effect 90 days after adoption.
- ▶ Traditional Town Meeting towns may vote by separate warrant article to designate the Select Board as the Cemetery Trustees.
 - ▶ “Shall we delegate the duties and responsibilities of the cemetery trustees to the board of selectmen?” If the majority vote in the affirmative then the delegation shall take effect 90 days after adoption and shall continue until rescinded by vote of the town meeting.
- ▶ In cities the trustees shall be chosen and hold their office for such term as shall be provided by city ordinance.

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How are Cemetery Trustees Selected?

Elected - Mostly. RSA 289:6.

- Default: 3 Trustees.
 - Each elected for staggered 3-year term.
- May choose to have 5 Trustees.
 - First 3 elected for staggered 3-year terms.
 - Other 2 appointed by the Select Board for staggered 2-year terms.
 - Subsequently, elected to staggered 3-year terms.

Vacancies are filled by appointment by the Select Board.

The Trustees may recommend up-to 2 alternates.

- Alternates appointed by the Select Board.

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RSA 289:2 “Municipality to Provide”

- ▶ Every municipality shall provide or may enter into agreements with adjacent municipalities or nonprofit entities to provide, one or more suitable cemeteries for the interment of deceased persons, which shall be subject to such regulations as the municipality may establish.
- ▶ In the absence of regulations established by vote of the legislative body, the cemetery trustees may establish such regulations pursuant to RSA 289:7, I(a).
- ▶ The operation and maintenance of all cemeteries owned and maintained by the municipality shall be in the charge of the cemetery trustees.

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Organization of Cemetery Trustees

- ▶ RSA 289:6: Requires Trustees to appoint Chairperson and Bookkeeper.
 - ▶ May be the same member.
- ▶ Bookkeeper “shall keep the records and books of the trustees and shall issue vouchers as necessary for funds to be expended.”
- ▶ RSA 289:5: Requires a record of every burial in the town showing the date of burial and name of the person buried, when these particulars can be obtained, and the lot, plot, or part of such plot or lot, in which the burial was made, to be supplied and maintained by the cemetery trustees.

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Cemetery Trustees: Powers & Duties

- ▶ RSA 289:7 -
 - ▶ Adopt bylaws (regulations) for management of cemeteries;
 - ▶ Prepare annual budget for cemeteries;
 - ▶ Expend monies raised by municipality;
 - ▶ Expend income from trust funds held by Trustees;
 - ▶ Prepare deeds of cemetery lots;
 - ▶ Appoint custodian or sexton (if needed).

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Cemetery Lot Transactions

- ▶ 289:2-a Funds Received From Sale of Cemetery Lots: Town Meeting may vote to either deposit cemetery lot sale proceeds in the general fund, or be deposited with the trustees of trust fund for the maintenance of cemeteries under RSA 31:19-a.
- ▶ Deeds should specify the terms that apply when a deed is to be returned to the cemetery.
- ▶ Deeds should also require that any transfer go through the cemetery to be valid.

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Cemetery Rules & Regulations

- ▶ Good Examples of Rules & Regulations at the NH Cemetery Association Website:
<https://www.nhcemetery.org/extras>
- ▶ Suggested content to include:
 - Transfer of cemetery lot deed/rights
 - How and who supervises interment and disinterment
 - Size and placement of headstones & markers
 - Manner of permitted plantings and decorations
 - Operations of vehicles; pedestrian access; whether dog walking is permitted or prohibited.

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