

RYE PUBLIC LIBRARY
PUBLIC STATEMENT

In order to correct the record in light of the Select Board's public statement of December 14, 2020 the Rye Public Library Board of Trustees makes this public statement to clearly state the reasons for the decisions we have made, clarify how the current situation came about and suggest a reasonable path going forward.

The Trustees have consistently sought to protect the best interests of the Library and the public that it serves. During the past 12 months, since the Select Board entered into a contract to trade the town-owned Parsonage for the former TD Bank property owned by 500 Washington, LLC (500), the Trustees have tried to find a solution that would allow the Parsonage "swap" to go forward in a way that does not irreparably damage the Library's interests.

Only as a last resort did the Trustees reluctantly make the decision to pursue legal action, which is currently pending in the Superior Court. While prepared to continue the fight, we remain open to finding a solution that would end the litigation and protect the long-term interests of Rye and the Library.

Fiduciary Responsibility:

The fiduciary responsibility for the Rye Public Library is vested in the publicly elected Trustees by RSA 202-A:6 which states that they "shall have the entire custody and management of the library and of all the property of the town relating thereto." New Hampshire law establishes that the library is an entity separate and distinct from the town and neither it nor its Trustees are subordinate to the Select Board.

Parsonage/Library Property Lines:

In accordance with its fiduciary duties, the Trustees expressed concerns over the property lines of the Parsonage parcel both before and after the March election. Despite the Trustees' specific questions, the Select Board avoided providing any information about where the lot lines for the Parsonage property would be, despite what we have learned were assurances to 500 as early as November or December 2019 that the parcel to be transferred would include Library-controlled property.

Specifically, the Trustees learned from Mr. Philbrick, principal of 500, that property lines up to the library walkways were promised by the town attorney as part of the initial "swap" agreement. In order to convey what Mr. Philbrick said he had been promised and instead of clarifying that ownership of the library-controlled property would be retained by the Town, the Select Board approved in May a so-called "property maintenance agreement," in preparation for conveying to 500 the library-controlled property.

Contrary to the Select Board's statement, the agreement was inadequate to protect the Library, as our May 22, 2020 letter to the Select Board spelled out. This was never about "protecting the bushes," but about our fiduciary responsibility as Trustees and the Select Board's decision to override our legitimate concerns and authority in order to get TD Bank.

On June 1, Mr. Philbrick declined to extend the swap agreement, citing in his letter published by the Select Board, not the lack of a subdivision of the property as the basis for his voiding the agreement, but rather his reluctance to proceed without the Trustees' endorsement.

Library Expansion and the Parsonage

The idea of using the Parsonage building itself for the expansion of the library came out of the Plan NH charette in May 2019. It was an ill-considered, poorly vetted recommendation that the Select Board has now twisted to support its statement that the Library rejected the Parsonage. The library declined to renovate the building; the land on which the Parsonage sat was not offered for expansion.

In August 2019, the Trustees had its fundraising consultant make a presentation to the Select Board about the idea of a comprehensive planning and fund-raising campaign for all of town center, which is of course anchored by the library. All the Select Board members spoke in support of such collaboration at this meeting. Nonetheless, in an about face, the Select Board passed over this collaborative planning when it executed the swap agreement in December.

The Two Lot Plan:

Over the summer, at the invitation from the Town Administrator, two Trustees negotiated with 500 Washington to effectuate the “swap”, in part, at least, because of concerns engendered by the Select Board’s stated intention to sell the Parsonage property to the highest bidder if the swap did not get “resurrected.” Despite the Trustees’ request, no Select Board member participated in the negotiations, though the town attorney was present. A Conceptual Agreement in Principle was signed, a formal agreement specifying the particulars necessary to implement the Two Lot Plan was presented, and the Trustees returned it to the town attorney requesting several clarifications to the language. This Two Lot Plan is the deal described by the Select Board in the September 2020 town newsletter as requiring a town vote.

For reasons uncommunicated to the Trustees to this day, Mr. Philbrick decided the Two Lot Plan was unacceptable. In order to advance the Two Lot solution and at the urging of Bill Epperson, the Trustees made clear our willingness to engage in any and all efforts to resolve any parking and other differences. Bill Epperson agreed to take this information to Mr. Philbrick.

Instead of supporting the Library’s solution and working to finalize the Two Lot Plan, the Select Board made yet another about face; it cut the library out of the process entirely and ignored the will of the voters by executing a new agreement with 500 on November 10 that is much different from the original swap. Notably, instead of requiring that Mr. Philbrick invest at least \$850,000 to renovate the Parsonage, the new deal required that the town demolish the Parsonage to provide Mr. Philbrick with a clean slate for his new development. The new deal likewise relieves Mr. Philbrick from compliance with almost all town ordinances – even though it is a private development. These substantive changes should have required consideration by Rye voters in the March Town Meeting – exactly what the Two Lot Plan required.

This new agreement inexplicably does not require voter approval and unlike the Two Lot Plan, makes the open space to be created next to the library (now reduced from 100 to 75 feet) private property. While it may provide the town with “a beautiful view of the library from Washington Road,” it does not allow town residents and students to walk through it, gather in it, and attend library programming planned for it. The Amended Agreement the Select Board executed on November 10, 2020 greatly improved the deal for 500 at the expense of the residents of Rye, without their consent.

The Trustees continue to believe that the best solution to this issue is a negotiated settlement that achieves the most significant benefits to the town now understood to be at stake. The Trustees hope

that the private party, despite the much more advantageous position he is in as a result of the "Amended Agreement" will once again consider the best interests of the Public Library moving forward.

Rye Public Library Board of Trustees
December 28, 2020