

STATE OF VERMONT
WINDSOR COUNTY, SS.

HARTFORD BOARD OF LIBRARY TRUSTEES, :	WINDSOR SUPERIOR COURT
Plaintiff :	
:	
v. :	DOCKET NO. 21-01-01 Wrcv
:	
TOWN OF HARTFORD, :	
Defendant :	

DECISION AND ORDER

In this case the Hartford Board of Library Trustees seeks a Declaratory Judgment determining the relative authority of the Hartford Town Manager and Hartford Select Board, on the one hand, and the Hartford Board of Library Trustees on the other, with respect to the operation of the public libraries of Hartford, and in particular the salary and benefits of the librarian. Attorney Paul S. Gillies represents the plaintiff Hartford Board of Library Trustees. Attorney Robert C. Manby Jr. represents the defendant Town of Hartford.

The court held a hearing for the presentation of evidence on January 31, 2002. However, the case centers on issues of law. The facts are largely undisputed, and no formal findings of fact are required.

Stated generally, the parties' disagreement has to do with control over the library. A serious tension has arisen between the traditions of the library and the needs of the town to manage its affairs. On one hand, the statute governing public libraries gives the Board of Library Trustees "full power to manage the public library" under 22 V.S.A. § 143(a), and the municipality appropriates money "annually for the maintenance, care and increase of the library in an amount voted at its annual meeting," under 22 V.S.A. § 142. On the other hand, by statute the selectmen have "general supervision of the affairs of the town" under 24 V.S.A. 872; a municipality has authority to adopt personnel rules applying to "all employees" of the municipality, under 24 V.S.A. § 1121; and the

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town manager has broad authority to perform duties required of the towns and not already committed to the care of any particular officer, under 24 V.S.A. § 1236(1). The Town Managers Act, § 1236, contains various provisions describing the duties and authority of the town manager, but § 1236 does not specifically address the town manager's authority to supervise the operations of the library.

When addressing issues of statutory construction, a court's paramount goal is to give effect to the intent of the legislature. Gallipo v. City of Rutland, 12 Vt.L.W. 363 (2001). In determining intent, it is helpful to look beyond the language of a particular section, and to examine the whole statute, the subject matter, its effects and consequences, and the reason and spirit of the law. In re Wal*Mart Stores, Inc., 167 Vt. 75, 84 (1997). Statutes dealing with the same subject matter must be read *in pari materia*. Sagar v. Warren Selectboard, 170 Vt. 167, 174 (1999). A specific provision will prevail over a more general provision, and the court will attempt to resolve statutory conflicts by looking for a construction that will harmonize the seemingly-inconsistent statutes. Vermont Tenants, Inc. v. Vermont Housing Finance Agency, 170 Vt. 77, 83 (1999).

The statutes dealing with control over library issues do not present a model of clarity, and both parties have made legitimate arguments in favor of their respective positions. One thing that is clear is that the statutes contemplate a sharing of responsibilities. See Farmer v. Haley, 100 Vt. 75, 80 (1926) (statutes governing school districts assume a "spirit of cooperation"). At issue is the general balance of control in the management of the library.

As noted above, the statute governing public libraries gives the Board of Library Trustees "full power to manage the public library," as follows:

(a) Unless a municipality which has established or shall establish a public library votes at its annual meeting to elect a board of trustees, the governing body of the municipality shall appoint the trustees. The appointment or election of the trustees shall continue in effect until changed at an annual meeting of the municipality. The board shall consist of not less than five trustees who shall have full power to manage the public library, make bylaws, elect officers, establish a library policy and receive, control and manage property which shall come into the hands of the municipality by gift, purchase, devise or

bequest for the use and benefit of the library. The board may appoint a director for the efficient administration and conduct of the library.

22 V.S.A. § 143(a).

Section 143 is designed to give the library trustees full control over its stock of resources. It also authorizes the board to appoint a director. However, it does not specifically refer to employees or their salaries or other benefits.

The municipality has explicit statutory authority to adopt personnel rules applying to “all employees of a municipality, including officers and employees of a fire department or police department maintained by the municipality.” 24 V.S.A. § 1121(b). Personnel rules adopted under this section do not apply to employees of the school district. Id. This limitation is consistent with the Supreme Court’s holding that a school district is not a department of the town. Farmer at 78 (citing North Troy School District v. Town of Troy, 80 Vt. 16 (1907)).

If employees of the library are employees of the municipality, then personnel rules adopted under § 1121 may apply to employees of the library. The specific provisions of 24 V.S.A. § 1121 will prevail over the general grant of authority to the library trustees under 22 V.S.A. § 143, because the statute governing library trustees does not refer to employees or personnel policies.

The statutes governing municipal officers recognize the authority of the selectmen to supervise the affairs of the town to the extent certain powers are not committed to the care of any particular officer, under 24 V.S.A. § 872, and the Town Managers Act grants similar authority to the manager, under 24 V.S.A. § 1236(1).

The Town Manager Act also provides broad grants of authority within certain areas. As examples, § 1236(3) grants authority “[t]o be the general purchasing agent of the town and purchase all supplies for every department thereof,” § 1236(4) grants “charge and supervision of all public town buildings,” and § 1236(7) grants authority “[t]o do all the accounting for all of the departments

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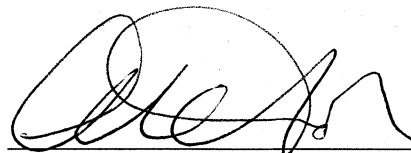
of the town and of the town school districts when the board of school directors so request.” The scope of these provisions extends to all departments and to the school district. (The school district is not a department, Farmer at 78.) Moreover, subsection (3) expressly covers “every department,” including “departments over which such manager is not given control.” This reference implies that, even if the manager does not have full control over an entity within the town government, that entity may still be considered a “department” for at least some purposes.

In the instant case, it is clear that the parties have operated the library as an entity within the town government, and that the library trustees have acquiesced to some control by the town manager. As examples, the Town of Hartford has arranged for the purchase of heating oil for the library, and the town also has provided the librarian with various benefits of employment such as workers’ compensation insurance and unemployment insurance. These arrangements support a conclusion that the library is a “department” within the town, even if the manager does not have full control.

ORDER

The court concludes (1) that the library is a “department” within the meaning of 24 V.S.A. § 1236, and (2) that the librarian is an “employee” within the meaning of 24 V.S.A. § 1121. To the extent there is a conflict between 24 V.S.A. § 1121 and 22 V.S.A. § 143, the more specific provision dealing with personnel matters (§ 1121) prevails over the more general provision dealing with full power to manage the public library (§ 143). Therefore the Town of Hartford is authorized to exercise control over details of the librarian’s employment, including her salary and benefits.

Dated at Woodstock, Vermont, this 15th day of April, 2002.



Hon. Alan W. Cook, Presiding Judge

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