

EXHIBIT 4

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Town Counsel demands library turn over records

Selectmen threaten former trustees with lawsuit

By Elizabeth Pezzoli

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Former Wareham Free Library trustees will face "appropriate action" if they don't comply with an Aug. 16, 2007 deadline for turning over their financial records for fiscal years 2006, 2007 and 2008, as well as meeting minutes (both regular and executive sessions since January 2006) to the town.

In a letter written by town counsel Elizabeth R. Corbo to Wareham Free Library Director Mary Jane Pillsbury on Aug. 2 (and copied to selectmen, the acting town administrator and to all the individual members of the former board of trustees), these "appropriate actions" will include referral to appropriate state agencies for enforcement of relevant statutes and the initiation of litigation."

Corbo asked Selectman Chair Brenda Eckstrom to make her letter public information. Eckstrom read the letter into her board's meeting minutes this week.

Corbo advised selectmen to pursue litigation and notification of state agencies based on the fact trustees have not complied with state statutes and that they have already missed two deadlines to turn over the information and have refused to meet with selectmen and town counsel.

Corbo has given the trustees two occasions to comply with the law and/or to meet with selectmen. They have done neither. Former trustee John Lanci and former trustee treasurer Diane Lazarus were invited to meet with Corbo and the selectmen on Aug. 1. Trustee chair Priscilla Porter responded that Lanci would not be available and set no alternative date. A second request was ignored, according to Corbo.

The former trustees met in executive session Tuesday evening with an attorney they have apparently hired to represent them. Selectmen wondered how the trustees planned to pay for counsel, since their membership is no longer a part of town government.

Lazarus was the trustees' treasurer when selectmen, acting under state statute and advice of Corbo, advised that board to disband the current membership because the method used in the past to appoint them was in violation of the Town Charter. All were invited to reapply. None have. One trustee has reportedly visited the Town Clerk's office asking what a recall procedure of selectmen would entail.

The reason they are referred to as "former trustees," according to Corbo, is because state statute was not followed in their appointments. The trustees, however, posted a meeting of their group for Tuesday, suggesting they do not recognize the selectmen's authority to change their status.

The real issue behind all this appears to be the creation of the Wareham Library Corporation in April. The trustees have turned over an unknown amount of their funds to it ever since, according to Corbo.

Corbo said the trustees broke another rule in the way they appointed a treasurer. In order to have a treasurer they would have needed to have one approved by Town Meeting voters and have all the bonds required by the state taken out for that person.

The trustees have not done that. Corbo said all the funds the trustees hold, whether in a foundation, a checkbook or a savings account, are considered "public funds" not the private funds of the trustees, and they need to be accounted for.

Selectmen were taken by surprise during the July evening when the trustees were first notified their appointments had been deemed invalid by town counsel. Lanci approached the board and admitted the foundation's existence. What muddles the issue even more is that, according to state records, the trustees made themselves officers of the foundation, a clear breach of the state's conflict of interest laws.

"Call in the Attorney General, the Ethics Commission ... call them all," said selectman John Cronan said. Corbo indicated in her four-page letter to Pillsbury that she would be contacting both those agencies, and possibly others, if the trustees did not comply with the Aug. 16 deadline.

Selectman James Potter said the situation "is beyond words. It comes close to money laundering. They can't do these things with public money."

Selectman Jane Donahue said Potter's stance is "a considerable understatement." The delay by the trustees is "giving the public a perception that they're doing something wrong. The selectmen are trying to do the right thing. They want the library to be run as it should be. The Wareham Library Foundation was really a bad idea."

Porter told selectmen last month she didn't know how much money the trustees had in their accounts. She didn't mention the foundation, which was established in January. On April 11 trustees minutes show they voted to authorize the transfer of public funds to "support any library" in town. That appears to allow funds to be channeled to the proposed Spinney Memorial Library in Onset. According to state law, any money raised by a library's board of trustees or donated on behalf of a specific library must be used only for an existing branch.

Independent fund-raising efforts, such as those conducted by supporters of the Spinney project, are perfectly acceptable.

Cronan said the library's stance "makes no sense."

"These people are way out of control," Cronan said Tuesday before suggesting the town "close the library down" to force the trustees to come up with the requested information.

Cronan apologized Wednesday for the statement and said he hoped people wouldn't misconstrue it. He said he doesn't actually want the library to be closed. He is just frustrated by the refusal of the former trustees to turn over information requested by counsel.

Missing documents irk selectmen into action

By Elizabeth Pezzoli

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Missing documents - especially minutes of meetings of various town boards and committees - concern selectmen so much they have decided they will no longer be stored at the Wareham Free Library.

State statute makes the town clerk the official keeper of the records, but for whatever reason several years ago, whether for public accessibility or lack of secure storage space in the Town Clerk's office, records such as minutes of all board and committees got redirected to the library for safe keeping.

This week, after hearing from selectmen's meeting regular William White, selectmen decided to go back to the way things once were, and the way statute says things should be. Additional storage space will be located in Town Hall where the records can be securely kept.

White said the report of missing minutes at the previous meeting of selectmen "disturbed" him. Missing information makes it harder for anyone, regular citizens included, to ever check on historical data, he said. "Is there a process in place, an office that is a repository for things like minutes?" White asked.

Selectman Bruce Sauvageau said the concern came into the spotlight when the new Personnel Board "could not locate 10 years worth of records" of its predecessors. The problems with record-keeping also came to light with the recent Harborwatch hearing when minutes from the meeting of selectmen where the liquor license transfer was made from LH Corporation to Harborwatch could not be found. Conditions to the license were supposed to be attached, but, according to selectmen's staffer Barbara Ford, they were not.

"We're not following the law," Sauvageau said of the library filings.

Selectman John Cronan, who spent nine years on the Zoning Board of Appeals, said he couldn't locate minutes he was looking for from that board's hearing on a Harborwatch expansion either. He said relying on people's memories is inefficient.

"You've hit a major nail on the head," Cronan told White this week. "It seems every board was on its own. There was no commitment. From now on we are going to follow the rules and want the rules followed. We are going to follow the charter, and we're going to get along. We're trying to get a grip on things. We have a new TA and the town clerk's office runs like clockwork."

Cronan had been looking for the minutes from the ZBA meeting where Meg Kisten of Harborwatch appeared seeking to increase her space by annexing 169 Onset Avenue.

While Town Clerk Mary Ann Silva admitted storage space was "tight," she added that she is looking into storing things in a more compact way such as on CDs or DVDs. At the clerk's office people who request to

look at files must leave their driver's license to assure things are returned.

Because of the missing minutes both from the ZBA and then from selectmen's meeting files, selectmen were without backup for their contention the Harborwatch license had been conditioned.

Kisten said it was not and that she never heard of any. Cronan said he remembers either Kisten or her architect, Jane Gleason, commenting on them at the ZBA proceedings. Now there is no proof, either way, with missing minutes and files.

This isn't the first time official documents have come up missing. Zoning board minutes pertaining to a lawsuit against former Selectman Mary Jane Pillsbury (she has been accused of using her political power to keep a rival self-storage business out of town), came up missing. Meeting minutes are required by the town's charter to be filed both with the Town Clerk and the Wareham Free Library so that they are available for public perusal.

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The Former Library Board of Trustees - Now this is getting downright ridiculous. The group posted notice of a meeting of the Library Board of Trustee on Tuesday to announce planned litigation against the Board of Selectmen. Forget for a moment that none of them are actually members of the Library Board of Trustees anymore. The group hired an attorney and plans to file suit against the selectmen for disbanding their membership a few weeks ago after Town Counsel ruled they had all been appointed in violation of the Town Charter. They had all been invited to re-apply by the selectmen. But instead they have hired an attorney (hopefully not on the town's dime) to fight the selectmen's decision. **They also refuse to turn over their financial records, which the selectmen plan to subpoena. Either this is one collective temper tantrum or these folks are trying to hide something. Here's one theory: The money they raised is supposed to go exclusively to the Wareham Free Library. Could some of it have been place elsewhere, like for the Spinney Library Project or somebody's pocket? If these folks want the sympathy of the community, they must hand over their documentation immediately or they just might find themselves facing some serious charges.**