

BOULDER PUBLIC LIBRARY DISTRICT
-SPECIAL MEETING-
Tuesday, August 22, 2023
Boulder Public Library, Canyon Meeting Room
1001 Arapahoe Avenue
Boulder, CO
and
Via Zoom
6:00 p.m.
Join Zoom Meeting
<https://tinyurl.com/yckjjw7v>

<u>Board of Trustees</u>	<u>Term Expiration</u>
Benita Duran	2028
Jennifer Yee	2028
Sylvia Wirba	2027
Doug Hamilton	2027
Cara O'Brien	2026
Sam Fuqua	2025
Joni Teter	2024

AGENDA

1. Call to Order
2. Declaration of Quorum
3. Public Comment
4. Consider approval of minutes of August 15 Trustees' meeting
5. Library District Director Updates (David Farnan)
6. Subcommittee Updates
7. Trustee Matters
8. Legal Counsel Status Report (Legal Counsel)
9. Possible Executive Session:

Upon Motion Made and carried by a 2/3 vote the Board may enter executive session as allowed by Section 24-6-402 (4), CRS for a conference with the attorney on specific legal matters and to determine matters that are subject to negotiations concerning the Intergovernmental Agreement with the City and County as allowed by subsections (4) (b) and (e) regarding IT integration and others terms.

10. Adjournment

NEXT SPECIAL MEETING: Tuesday, August 29, 2023 at 6:00 p.m.
Boulder Public Library, Canyon Meeting Room, 1001 Arapahoe Avenue

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES

OF THE

BOULDER PUBLIC LIBRARY DISTRICT

Held: Tuesday, August 15, 2023, at 6:00 p.m. at Boulder Public Library, 1001 Arapahoe Avenue, Boulder, Colorado.

Attendance

The regular meeting of the Board of Trustees of the Boulder Public Library District was called and held as shown above in accordance with the statutes of the State of Colorado. The following Trustees, having confirmed their qualifications to serve on the Board, were in attendance:

Katharine (Joni) Teter
Benita Duran
Sylvia Wirba (via Zoom)
Doug Hamilton
Sam Fuqua
Cara O'Brien

Absent: Jennifer Yee

Also present were Kim J. Seter, Esq., Seter & Vander Wall, P.C.; David Farnan, Director of the Boulder Public Library. Also present via Zoom were Jennifer Phares, Boulder Public Library and Marissa Peck, Esq., Seter & Vander Wall, P.C.. Bob McCool of Ariel I.T.; Aimee Schumm, eServices manager for Boulder Public Library; and, Andy Sandler, Boulder Library Foundation Board member were present to discuss I.T. matters. Kelly Hansen, Legal Assistant at Seter & Vander Wall, P.C. assisted with the operation of the remote attendance.

Call to Order

Trustee Teter called the meeting to order at 6:02 p.m. noting that a sufficient number of appointed trustees were present to create a quorum authorized to act on behalf of the District.

Public Comment

Chris Barge, Executive Director of the Boulder Library Foundation, updated the Trustees that the Foundation Board ratified their proposed changes to the Foundation's bylaws concerning Trustee appointments. Every April, the Library Board will appoint two Trustees to serve one-year terms as

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Consider Approval of Minutes of July 11, July 18, and July 25, August 1, and August 8

Library District representatives on the Foundation Board. Trustee Hamilton and Trustee Wirba will serve as the first two District representatives on the Foundation Board.

There being no further changes, Trustee Hamilton motioned to approve the minutes of July 11, July 18, July 25, August 1 and August 8. Upon second by Trustee O'Brien and Trustee Fuqua and unanimous vote, the Board approved the July and August meeting minutes as presented.

IT Discussion Follow-Up

Mr. Farnan opened the discussion regarding the City's IT presentation the week prior, emphasizing a need for open channels of communication between City and Library IT officials. Mr. Farnan stated that although the City's proposal is slightly different than expected, it is simple, elegant, and potentially the best the Library could have hoped for. Mr. Farnan expressed his desire to foster a collaborative partnership with the City for the migration process.

Ms. Schumm stated that the RFP for IT migration will be ready to go the following day. The Library is working under the assumption that it will be moving completely to the cloud and that the City will be able to offer some flexibility regarding network access throughout the transition process.

Mr. Farnan stated that at its most basic level, the City is proposing to split a portion of its fiber with the Library at which point the Library will need to design, build, and implement a complete, freestanding network. From there, the Library may begin its migration of data, primarily Office 365 data. Mr. Farnan cautioned that the network building process may be hindered by supply chain disruptions.

In response to Trustee Hamilton's inquiry regarding the status of network servers, cameras, and PCs at the Library, Mr. Farnan explained that the Library will likely be handing over anything with an asset tag, but that it is less expensive and easier for the Library to purchase all new PCs than to wipe clean and re-image the existing City-owned ones. Regarding the Wi-Fi on top of the Main Library, Mr. Farnan stated his preference for the City to leave it there in the interim as well as the police cameras located on the roof. Trustee Teter emphasized that there are areas of the IT migration process, such as those listed by Mr. Farnan, where it is in both the City's and the Library's best interest to work collaboratively to ensure the community's needs are being met.

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Trustee Teter stated her belief that the District will be able to transfer employees by January 1, citing the virtual and cloud-based nature of the process. However, Trustee Teter anticipates there may be carry-over into 2024 with regard to the transfer of Microsoft 365 data.

Regarding January 1, Mr. Farnan reiterated that while that is the goal, the complexity associated with decoupling the current system and supply chain disruptions may end up pushing the completion of the IT migration to a later date.

In response to Trustee Duran's question regarding whether there are any dynamics the Trustees should be made aware of concerning computer access and remote work, Ms. Schumm stated her belief that there is nothing for the Trustees to worry about in that regard. Trustee Duran then asked if remote Library staff receive stipends for internet access to which Ms. Schumm replied they do not. Trustee Teter expressed support for continuing the discussion regarding reimbursement for internet access as the Staffing committee explores remote working arrangements.

Responding to Trustee Fuqua, Ms. Schumm explained that her biggest concern regarding the IT migration is supply chain issues and delays. However, Ms. Schumm is confident that the District will be able to successfully complete the IT migration process through effective collaboration with the City.

In response to Trustee Duran's inquiry regarding the timeline for purchasing new PCs, Mr. Farnan stated that the network would need to be built out before the Library could make use of new PCs anyway.

Mr. Farnan shared that the deadline for returning proposals will likely be September 5. Mr. Farnan encouraged the Trustees to involve a member of the community and one or two of the Trustees themselves in the selection process. Mr. Farnan stated that there are three firms he hopes to speak with very generally he expects the firm who is chosen to work collaboratively with the Library and City.

Responding to Trustee Duran's question regarding whether the Library will be using BidNet to publish the RFP, Mr. Farnan explained that rather than using BidNet, he solicited City IT, other library districts and libraries, and private vendors for their recommendations, which resulted in a list of nine different IT

Review Request for
Proposals for IT Migration

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companies. Five companies have expressed interest in the project thus far.

Trustee Teter recommended that Trustee O'Brien and Trustee Hamilton serve on the selection committee for the IT migration vendor, along with Andy Sandler of the Foundation Board, who will not be receiving compensation for his work so as to abide by the District's conflict of interest policy. Without the requirement for a formal agreement in place between the Trustees and Mr. Sandler., Trustee Hamilton proposed crafting a motion to formally appoint Mr. Sandler to the selection committee. The Trustees supported the idea, with Trustee Hamilton motioning to appoint Andy Sandler to the IT subcommittee for the purposes of selecting an IT infrastructure provider and advising on Library District IT infrastructure matters provided that Mr. Sandler accepts such a role on a voluntary basis and agrees to abide by the Library District conflict of interest policy as well as act in the best interest of the Library. Upon second by Trustee Duran and unanimous vote, the Board approved appointment of Andy Sandler to the IT subcommittee.

In the spirit of transparency, Mr. Farnan further disclosed that Mr. McCool of Ariel IT is interested in submitting an RFP bid. Mr. McCool will have access to the RFP at the same time as all other vendors.

Consider Approval of
Contract for Design and
Management of Employee
Health Care Benefits
Package

Trustee Fuqua stated that there were five responses to the RFP and that he, Trustee Yee, and Mr. Farnan thoroughly reviewed each one, eventually narrowing it down to two finalists. Trustee Fuqua, Trustee Yee, and Mr. Farnan recommend contracting with FH Insurance, LLC ("FH").

Mr. Farnan explained that while all five vendors responded adequately the proposal, after evaluating each vendor's service philosophy and their critical analysis of the current benefits package the Library offers, FH was a clear standout. Trustee Fuqua echoed this sentiment and praised FH's thoroughness. Trustee Fuqua noted that FH is woman-owned and locally operated.

Trustee Fuqua explained that one of the major draws of FH is their free clinic offering in which Library staff and their families would be able to be seen by a doctor for a 60-90 minute session on or one day after the day which they call. Trustee Fuqua emphasized his belief that such an offering would be a great benefit to Library staff and their families.

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Trustee Fuqua explained that FH does not conduct more than 50% of their business with any one carrier which he felt indicated a willingness on FH's part to provide the best service possible to their clients. Trustee Duran asked if FH provides services to other libraries or library districts to which Mr. Farnan replied that they do not but that many of their clients are large, recognizable, Boulder-based companies.

Trustee Duran asked which hospital system the clinic doctors are affiliated with and Trustee Fuqua explained that, to his knowledge, they are all independent employees of the clinic. Responding to Trustee Hamilton's question, Trustee Fuqua explained that clinic visits are free, without copays. Mr. Farnan stated that for many Library employees, the status of their health is not their primary concern when it comes to healthcare and getting access to treatment, but rather the cost and affordability of doing so.

In response to Trustee Hamilton's inquiry regarding FH's mental health offerings, Trustee Fuqua explained that it would likely depend on the plan that the Trustees select.

Mr. Farnan expressed his belief that the clinic offering will be an enormously good match for Library staff needs. He also noted that FH is well-aligned with the Library's values and ethos. He anticipates getting a draft health benefits package to staff on September 12 with the aim of finalizing the plan in mid to late September.

There being no further questions or comments, Trustee Fuqua motioned to award the contract for design and management of employee health care benefits package to FH. Upon second by Trustee O'Brien and unanimous vote, the Board approved the above stated contract.

Consider Approval of New
Human Resource
Information System Provider

Mr. Farnan recommended Paylocity be chosen as the District's HR Information System Provider. Paylocity will provide timekeeping, payroll, and benefits administration services for the Library.

In response to Trustee Hamilton's inquiry regarding the cost for contracting with Paylocity, Mr. Farnan replied that Paylocity is about a third of the price of Workday and that the Library will receive a discount with its Employers Council membership.

There being no further questions, Trustee Fuqua motioned to

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approve Paylocity as the Library District's HR information system provider. Upon second by Trustee Hamilton and unanimous vote, the Board approved the hiring of Paylocity.

Director Update Mr. Farnan shared that he received banking documents from JP Morgan the previous day and that he sent them to Mr. Seter for review. Mr. Farnan also stated that he and Ms. Phares have brought on Leadline Project Management to aid in the implementation of the HR information system and with the District transition in general, for an amount not to exceed \$12,000. Mr. Farnan anticipates Leadline will provide the Trustees with an overall District transition update sometime in September.

Mr. Farnan shared that the visuals for the budget presentation will likely be ready for the September 5 meeting.

Subcommittee Updates
-Facilities Subcommittee Trustee Hamilton stated that the Facilities Subcommittee will be meeting with the City later next week.

Trustee Matters None.

Legal Counsel Status Report No action items.

Executive Session At approximately 7:16p.m. Trustee Hamilton motioned the Board of Trustees to enter into executive session as allowed by Section 24-6-402 (4), CRS for a conference with the attorney on specific legal matters and to determine matters that are subject to negotiations concerning the Intergovernmental Agreement with the City and County as allowed by subsections (4) (b) and (e). Upon second by Trustee Fuqua and unanimous vote, the Board entered into executive session for the above-stated purposes. The Board reconvened from executive session at approximately 7:41p.m. The Board did not take formal action nor did it adopt any policy, rule, or regulation while in executive session.

Adjournment There being no further business to come before the Board, and upon motion duly made, seconded and unanimously carried, the meeting was adjourned at approximately 7:42.m

Secretary for the Meeting

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DRAFT

MEMORANDUM

TO: Boulder Public Library District

FROM: Seter & Vander Wall, P.C.; Kim J. Seter, Esq.

DATE: August 18, 2023

RE: Legal Status Report for August 22, 2023

This is our legal status report for the August 22, 2023 Board of Trustees meeting.

Minutes-Action Item

Task: Prepare meeting minutes.

Status: The August 15 minutes are ready for approval. August minutes are available if you have had sufficient time to review.

Action: **Consider approval of the minutes.**

Negotiation of Intergovernmental Agreements-Action Item

Task: Draft, negotiate and finalize Intergovernmental Agreement among the City, County and Library District required by § 24-90-107(2)(e), C.R.S.

Status: The Interim IGA anticipates execution of the Final IGA by October 31, 2023.

See attached ATTORNEY/CLIENT PRIVILEGED MEMORANDUM regarding August 16 meeting with the City.

Action: **Move into executive session to discuss Attorney/client Privileged Memorandum under Agenda item 9.**

RECOMMENDED MOTION:

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I move the Board enter executive session for a conference with the attorney on specific legal matters and to determine matters that are subject to negotiations concerning the Intergovernmental Agreement with the City and County as allowed by subsections (4) (b) and (e) of the Colorado Revised Statutes.

District Bank Account-Report

- Task:** Assist in opening District bank account.
- Status:** We have agreed upon and finalized the Account Terms with the Bank. The agreement is being signed pursuant to your previous authorization to Trustees Wirba and Teter.
- Once the account is open we can arrange to have funds transferred to the Board's control from the County Treasurer.
- Action:** None required.
-

Proposition HH and Related District Revenue Reduction Legislation SB 23-303 and SB 23-108-REPORT

- Task:** Provide an analysis of HH and its effects on library revenue.
- Status:** Bill Summary
- If approved in the November elections, HH will lower taxpayer payments. That translates to lower tax revenue for the Library District.
- Property taxes are paid by the owner on a portion of a property's Market Value. The Taxable Value is determined by:
- Market Value x Assessment Ratio = Taxable Value
Taxable Value x 3.5 mills = Library Tax Revenue
- The Library District mill levy is imposed on the Taxable Value. The Mill Levy is 3.5 mills. 1 mill is 1/1000th of a dollar.
The current Assessment Ratio for residential property is 6.795%, most other property types are assessed at 29%.*
- Proposition HH proposes to reduce Actual Values, the Assessment Ratios and to limit tax revenue increases.

If approved by the voters, HH will lower library tax revenue by:

1. Reducing actual Market Value by a set amount before applying the Assessment Ratio; and
2. Lowering the Taxable Value by reducing the Assessment Ratio; and
3. Reimbursing some revenue losses to some local governments including the Library District; and
4. Creating a new limit on the growth of property tax revenue.

This is a very complicated statute and, we will discuss its implications further during the budget process.

Consideration

Starting with property tax year 2023, the bill restricts property tax revenue by allowing an increase of “no more than inflation over the revenue from the previous property tax year.”

Accordingly, the Library District would be allowed 2023 tax receipts + inflation; regardless of the increase in property values, growth within the district boundaries, etc. A temporary mill levy reduction is authorized or required to stay below this limit.

The Library District MAY be able to exceed the limit by:

- a. Notifying the public of its intentions and holding a hearing;
- or
- b. May have already waived the limit in its 2022 election. We are trying to determine what the related language in HH means in this regard.

I was asked to include an email exchange between CAL Legislative Committee Chair and me regarding this matter which is attached.

Action: None.

FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM OPT OUT-REPORT

Task: Consider FAMLI participation.

Status: FAMILI became law in 2022. Employers are automatically enrolled. FAMILI requires deductions from employees' pay as well as a contribution from the employer. A summary of payments and coverage is in the attached DRAFT NOTICE TO EMPLOYEES that we utilized in 2022.

The Library District has the right to "opt-out" of the program but must first give notice and hold a hearing. We want to have this process completed before the end of December to avoid automatic enrollment.

Action: **This matter will come before the Board in September.**

Library Tax Receipts-Report

Task: Move tax receipts held by the county treasurer to the District. This will require an agreement and some sureties pursuant to the Library Law.

Status: I contacted the County Finance Office but have not received a call back with the current balance of the District's tax receipts.

Action: **None Required.**

Notice of Violation of 5.5 % Limitation-Report

Task: The Colorado Division of Local Governments in the Department of Local Affairs notified the County of its belief the District has violated the limitation of 5.5% property tax revenue increases and must refund its tax receipts.

Status: The Division often makes these errors. I do not believe the County did anything wrong in the election that approved the tax revenue in the first instance. We are addressing this matter with the Division.

Action: None required.

Property Leasing and Property Ownership Affect on District Borrowing Under TABOR-REPORT

Task: Advise the Board and City about the benefit of property ownership in financing.

Status: Library District's seldom finance new buildings using municipal bonds because of the cost and difficulties created by the need for a TABOR Election to authorize debt.

The Colorado Supreme Court has determined that lease/purchase financing is not "debt" and is exempt from TABOR debt requirements. Banks and other lenders are very willing to enter such transactions. The transaction is described below.

1. The lender purchases a property from the Library District.
 - a. This can be an existing library building or new vacant land.
 - b. The lender pays cash to the Library District to be used for new construction.
2. Simultaneously, the Library District leases the property back from the lender in exchange for semi-annual lease payments.
 - a. The lease requires the Library District to build a new library or other structure that becomes part of the leased property.
 - b. Lease payments have a principal and an interest component just like a loan.
 - c. The leased property is automatically returned to the Library District at the end of the lease.
3. The Library District makes payments out of its general operating fund and not a debt service fund. The IRS allows lease investors to receive double tax exempt interest payments under the lease and the Library District receives very favorable lending terms.

Action: None Required.

PAYLOCITY Payroll Services Contract COMPLETED 8/15

Task: Negotiate final terms for Payroll Service Provider.

Status: A final Subscription Term Agreement is attached for consideration

Action: **This matter will be removed from the next report.**

Proposed Bylaw Amendment COMPLETED 8/15

- Task:** Propose Bylaw Amendment language and identify the process for making changes.
- Status:** You have received an email notice required by the Bylaws of the proposed language changes. That came from President Teter. The matter will be considered August 8.

Good morning, Trustees. Pursuant to Article XII of the Boulder Public Library District Bylaws, I am providing written notice of a proposed amendment to the bylaws to be considered by the Board at our meeting on August 8th. Two changes are proposed to Article II, Section 7, as noted below.

Article II, *Section 7. Removal*. A Trustee may be removed only following a **two-thirds** majority vote of the Board, and in accordance with Colorado Library Law, by a majority vote of the **[legislative]** appointing bodies, and only upon a showing of good cause. Good cause may include but not be limited to: a deliberate breach of the Bylaws or rules and regulations adopted by the Board; criminal, or fraudulent activity; causing significant harm to the Library, either materially or to its reputation; failure to perform duties outlined herein; or failure to attend three consecutive regular monthly meetings of the Board without an excused absence. The Board does, however, recognize extenuating circumstances and may waive or authorize an excused absence from the attendance requirement.

Action: This matter will be removed from the next report.

Additional Projects Outstanding

- a. Research City and District requirements regarding employment benefits.
- b. Resolution regarding state Family and Medical Leave Insurance Program opt-in or opt-out.
- c. Insurance matters including director errors and omissions, public officials' liability coverage, trustee bonds, and workers compensation.
- d. Colorado Open Records Act Resolution (CORA).
- e. Colorado State Archives Records Retention Schedule and Resolution.
- f. Resolution regarding disposal of data containing personally identifying information.
- g. IGA Sub-Projects Underway
 1. Obtain and review title work on all properties to be conveyed in fee. (title work ordered)
 2. Review library property leases regarding assignability and allowed uses etc. (completed)
 3. Obtain list of operations contracts and copies for review for assignability and conditions.
 4. Obtain list of BPL Library personnel positions. (completed)

Legal Status Report

August 22, 2023 Trustee's Meeting

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5. Follow up on NOBO subdivision.
6. Prepare analysis regarding transition of employee sick and vacation leave.
(Completed)
7. Draft proposed Civic Center License Agreement. (1st Draft Completed)

**NOTICE TO EMPLOYEES
OF**

**NOTICE PURSUANT TO § 8-13.3-122, C.R.S. AND 7 CCR 1107-2.6(A)(2), NOTIFYING
DISTRICT EMPLOYEES OF THE FAMILY AND MEDICAL LEAVE INSURANCE
PROGRAM AND INVITING WRITTEN COMMENTS ON WHETHER TO
PARTICIPATE IN THE PROGRAM**

In November 2020, Colorado voters approved Proposition 118, codified in §§ 8-13.3-501, *et seq.*, C.R.S., establishing the Family and Medical Leave Insurance Program (“FAMLI”) to provide Colorado workers paid leave for qualifying family and medical circumstances.

FAMLI will be funded by premiums paid by Colorado employers, employees, and, independent contractors that elect to participate in the in the program. FAMLI premium collection commences January 1, 2023 (employee benefits will be made available beginning in 2024).

FAMLI premiums for the year 2023 are 0.90% of each employee’s wage. The premium will be changed in subsequent years depending on program needs but will not exceed 1.2% of each employee’s wage.

An employer with less than ten employees must remit half of the full premium for each employee’s wage (0.45% in 2023), and may (a) pay the premium in addition to an employee’s wage or (b) deduct the premium from an employee’s wage.

An employee that meets the “covered individual” definition provided in § 8-13.3-503(3), C.R.S., is entitled to FAMLI benefits commencing January 1, 2024. Covered individuals may take up to 12 weeks of paid aggregate family / medical leave (up to 16 weeks for pregnancy complications) in a 12-month period for:

- Birth, adoption, placement, care of a new child during first year after birth, adoption or foster care;
- Care for a family member with a “serious health condition” (including pregnancy);
- An employee’s own “serious health condition” (including pregnancy);
- Exigency leave (active-duty military; post deployment or death); or
- Safe leave (employee or employee’s family member is the victim of domestic abuse, stalking or sexual assault / abuse).

The FAMLI paid leave benefit provides a partial income replacement, which is calculated as follows: 90% of an employee’s average weekly wage that equals or is less than half of

Colorado’s average weekly wage, and if applicable, 50% of the portion of an employee’s wage that exceeds Colorado’s average weekly wage. However, the maximum weekly benefit prior to 2025 will be capped at \$1,100.

FAMLI provides that any “local government” “employer”, as defined by §§ 8-13.3-503(14), 29-1-304.5(3)(b), C.R.S. and § 8-13.3-502(8), C.R.S., may decline participation in the program upon a majority vote of its governing body.

An employee whose local government employer declines participation in the program may elect to individually participate in the program for a minimum of three years by registering with FAMLI and paying 50% of the premium (0.45% of wage in 2023).

The Board of Trustees of the _____ District has determined to hold a public hearing on whether to decline participation in the FAMLI program.

All District employees are invited to submit written comments and /or speak at the public hearing on whether to participate in the FAMLI program, which will be held at a public meeting on [add date] at [add time and place]. Written comments must be received no later than [add date and time] in order to be considered.

Informational Links:

<https://famli.colorado.gov/> (FAMLI Program Homepage)

<https://famli.colorado.gov/individuals-and-families/individuals-and-families-faqs> (FAQ for Individuals and Families)

<https://famli.colorado.gov/individuals-and-families/premium-and-benefits-calculator> (Premium / Benefits Calculator)

<https://famli.colorado.gov/sites/famli/files/documents/Paid%20Family%20and%20Medical%20Leave%20Insurance%20Act-%20CDLE.pdf> (Paid Medical and Family Leave Act)

<https://drive.google.com/file/d/11m3t1jyZxBgu8pF5FkB4-vuNQN9rzXrf/view> (FAMLI Local Government Rules)