

BOULDER PUBLIC LIBRARY DISTRICT
 -SPECIAL MEETING-
 Tuesday, August 29, 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 22, 2023
5. Library District Director Updates (David Farnan)
 - a. Draft Employee Benefits Package Discussion
 - b. Possible RFP for Financial Software Package
 - c. Consider Board Policy on Public Comment
6. Subcommittee Updates
7. Trustee Matters
 - a. Approve Special Meetings for 9/5, 9/12 and 9/26
8. Legal Counsel Status Report (Legal Counsel)
 - a. Consider Resolution 23.08.01 Re Request to Transfer Tax Revenue
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).

10. Adjournment

**NEXT SPECIAL MEETING: Tuesday, September 5, 2023 at 6:00 p.m.
Boulder Public Library, Canyon Meeting Room, 1001 Arapahoe Avenue**

RECORD OF PROCEEDINGS

MINUTES OF THE SPECIAL MEETING OF THE BOARD OF TRUSTEES

OF THE

BOULDER PUBLIC LIBRARY DISTRICT

Held: Tuesday, August 22, 2023, at 6:00 p.m. at Boulder Public Library, 1001 Arapahoe Avenue, Boulder, Colorado.

Attendance

The special 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
Doug Hamilton
Sam Fuqua
Cara O'Brien
Jennifer Yee (via Zoom)

Also present were Kim J. Seter, Esq., Seter & Vander Wall, P.C.; David Farnan, Director of the Boulder Public Library; Jennifer Phares, Deputy Director of the Boulder Public Library; and, Kelly Hansen, Legal Assistant at Seter & Vander Wall, P.C. Marissa Peck, Esq., Seter & Vander Wall, P.C., attended via Zoom. Jennifer Phares and Kelly Hansen 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

None.

Consider Approval of Minutes of August 15

Trustee Wirba moved to approve the August 15 special meeting minutes as presented. Upon second by Trustee Fuqua the minutes were approved by the Board with Trustee Yee abstaining.

Director Update

Mr. Farnan stated that the Employers Council is reviewing an updated draft employee handbook after incorporating the

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feedback he received upon its initial review of the document as well as feedback received from Trustee Fuqua and Trustee Yee.

The IT RFP was sent last week to eight potential firms, with only one responding thus far. The IT firms have posed numerous questions related to ambiguities in the RFP but generally appear to be enthusiastic about the project. At least indicated that they may be weighing whether it is worth their time and energy to bid on the project. Nevertheless, Mr. Farnan remains confident that the selected firm will be able to complete the project within the timeframe outlined in the RFP.

Mr. Farnan will have a brochure for What's Up Boulder ready for the Communications Subcommittee to review prior to the September 5 meeting.

Mr. Farnan explained that the financial RFP is not quite ready yet and that the District's current financial advisor will be aiding in selecting a financial software system. While the Library is testing out a couple of different systems, Mr. Farnan intends to utilize QuickBooks initially. Should the District opt for a different system, the implementation of it could take 3-6 months and may not occur until later next year as the District will be focused on implementing Paylocity first.

In response to Trustee Hamilton's question regarding the use of QuickBooks in other libraries, Mr. Farnan expressed a desire to test the software out and strike a balance between what the City does and what would be best for the Library going forward. Ms. Phares explained that QuickBooks has its limitations. Among other things, it does not do well with fund accounting and does not track grants well. After a suggestion by Trustee Fuqua to consider NetSuite, Mr. Farnan and Ms. Phares shared that they are researching NetSuite along with Blackbaud and Sage Intacct.

Ms. Phares emphasized the need to issue an RFP for an auditor as well. Mr. Farnan added that they will be speaking with a few auditors, including the one the City currently uses, in the coming months.

Mr. Farnan announced that he received and signed banking documents and that they will be sent back to JP Morgan the following day.

RECORD OF PROCEEDINGS

Mr. Farnan estimated that the City's proposed 18-month payback period is doable. Mr. Farnan anticipates making an initial payment of \$11.5 million in the first year, preferably after March or April. This timing will permit the District to have a better idea of what the final assessed value growth rate will be, with an additional three payments of \$875,000 to follow later throughout the 18-month period. Mr. Farnan's model assumes a 13.5% increase in the assessed value growth rate, however, there is speculation that it could be higher. Proposition HH and related District revenue reduction legislation (SB23-303 and SB23-108) may translate to lower tax revenues for the District, but much about the laws remain ambiguous and so its effects are not fully quantifiable at this time.

Under the plan articulated by Mr. Farnan, the District will have an ending cash balance of approximately \$4.5 million in 2024.

Responding to Trustee Hamilton's inquiry regarding potential limitations on achieving master plan goals given the shorter payback period, Mr. Farnan assured the Trustees that everything outlined in the plan is still feasible. Some changes may need to be made, such as deferring some projects to a later date or putting 20% down rather than 50% for a Gunbarrel site, but Mr. Farnan anticipates making good on promises to open Carnegie and restore hours this upcoming budget season.

Mr. Farnan stressed that the Trustees' decisions regarding the revenue reduction legislation will have a far more profound impact on the Library's finances than anything they decide to do with the debt to the City.

In response to Trustee Teter's question regarding the City's position on the District potentially beginning the hiring process for new employees around October, Mr. Farnan shared his belief that the City attorney does not care. Nonetheless, Mr. Farnan will reach out to Mr. Meschuk and Ms. Rivera-Vandermyde to see if they have any concerns.

Subcommittee Updates

-Facilities Subcommittee

Trustee Teter stated that the Facilities Subcommittee will be meeting on Thursday.

Trustee Matters

Trustee Hamilton suggested establishing a formal procedure for submitting public comments and Mr. Farnan agreed to provide the Trustees with the Library Commission's policy on the

RECORD OF PROCEEDINGS

matter.

Legal Counsel Status Report No action items.

Executive Session

At approximately 6:13 p.m. Trustee Teter moved 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 Wirba and unanimous vote, the Board entered executive session for the above-stated purposes. The Board reconvened from executive session at approximately 6:21 p.m. to discuss the City's proposed 18-month payback period with Mr. Farnan. The Board did not take formal action nor did it adopt any policy, rule, or regulation while in executive session.

At approximately 6:41 p.m. Trustee Teter moved the Board of Trustees to enter back 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 executive session for the above-stated purposes. The Board reconvened from executive session at approximately 7:17 p.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 7:18 p.m.

Secretary for the Meeting

MEMORANDUM

TO: Boulder Public Library District

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

DATE: August 25, 2023

RE: Legal Status Report for August 29, 2023

This is our legal status report for the August 29, 2023 Board of Trustees meeting.

Minutes-Action Item

Task: Prepare meeting minutes.

Status: The August 22 minutes are ready for approval. Copy attached.

Action: Consider approval of the minutes.

Negotiation of Intergovernmental Agreements-Report

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. We believe we are on track to complete the process.

The City, County and District attorneys are meeting 8/24 to discuss and implement the further separation of the District/City IGA and the District/City/County IGA. The proposed changes were discussed in executive session on 8/22.

Action: No action necessary.

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Library Tax Receipts-Action Item

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: The attached Resolution 2023-8-1 follows the statutory process for obtaining tax receipts collected by the County Treasurer. The Treasurer has agreed to the terms.

If you approve the Resolution we will forward it to the Treasurer once we have an account opened at JP Morgan/Chase.

Action: Consider approval of the resolution.

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: FAMLI became law in 2022. Employers are automatically enrolled. FAMLI 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 notices 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.**

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.

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)
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)

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Secretary for the Meeting

**RESOLUTION
OF THE
BOARD OF TRUSTEES
BOULDER PUBLIC LIBRARY DISTRICT**

A RESOLUTION PURSUANT TO §§ 24-90-112 (2) (a) AND (c) C.R.S.
REQUESTING THE COUNTY TREASURER TRANSFER ALL FUNDS COLLECTED AND
MAINTAINED ON BEHALF OF THE LIBRARY DISTRICT
TO THE CUSTODY OF THE LIBRARY DISTRICT BOARD OF TRUSTEES

A. Section 24-90-112 (2) (a), C.R.S. provides for the County Treasurer of Boulder County to collect and maintain all moneys generated for the Boulder Public Library District’s (the “**District**”) purposes.

B. Section 24-90-112 (2) (c), C.R.S. provides that “if requested by the board of trustees, the treasurer ... may transfer moneys into the custody of the board”

C. The County Treasurer has collected and maintains property tax revenue for the District’s purposes.

NOW THEREFORE, the Board of Trustees of the Boulder Public Library District:

1. Requests the Treasurer of Boulder County, Colorado, transfer all moneys collected pursuant to the District’s property taxing authority, and all future property tax revenues collected pursuant to the District’s property taxing authority to the custody of the District Board of Trustees by ACH or check.

2. The District will:

a. Carry insurance to ensure the fidelity of all persons handling such funds and any other insurance available for the protection of public funds deposits; and

b. Provide reports of monthly expenditures in the form of bank account statements and reconciliations; and

c. Cause an annual audit to be performed and submitted to the Treasurer with respect to the Board’s management of said moneys.

RESOLVED this 29th day of August, 2023.

Board of Trustees

Boulder Public Library District

Joni Teter, President of the Board

Attest:

Acting Secretary/Trustee