

BOULDER PUBLIC LIBRARY DISTRICT
-SPECIAL MEETING-
Tuesday, August 8, 2023
Meadows Branch of the Boulder Public Library
4800 Baseline Road
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. Presentation by City IT staff (network, webpage, servers, equipment, data, software, contracts)
5. Consider approval of minutes of July 11, July 18, and July 25
6. Consider proposed Amendment to Trustee Bylaws
7. Library District Director Updates (David Farnan)
8. Subcommittee Updates
9. Trustee Matters
10. Legal Counsel Status Report (Legal Counsel)
11. 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).

12. Adjournment

NEXT REGULAR MEETING: Tuesday, August 15, 2023 at 6:00 p.m.
Boulder Public Library, Canyon Meeting Room, 1001 Arapahoe Avenue

AGENDA ITEM 6
Proposed Amendment to Trustee Bylaws

Proposed Bylaws Amendment

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 appointing **legislative** 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.

Please do not reply all. Thanks.

Joni

AGENDA ITEM 10
Legal Counsel Report

MEMORANDUM

TO: Boulder Public Library District

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

DATE: August 5, 2023

RE: **CORRECTED** Legal Status Report for August 8, 2023

This is our legal status report for the August 8, 2023 Board of Trustees meeting.

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

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

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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.

Immediate 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 can go above the limit by:

- a. Notifying the public of its intention to assess the voter authorized mill levy that may produce revenue above the limit;
- b. Holding a public hearing for public comment; and,
- c. Adopting a resolution to approve a levy that may exceed the limit.

Action: Consider whether and when to give notice and hold the hearing.

PERA Resolution-Completed

Task: Facilitate PERA Affiliation for employee retirement funding.

Status: Resolution No. 2023-08-01 is in the meeting packet to satisfy Agenda Item 6. A copy is also attached.

Action: Completed. This will be removed from the next status report.

FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM OPT OUT-Action item

- Task:** Consider FAMILI 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 notices and hold a hearing. We want to have this process completed before the end of December to avoid automatic enrollment.
- Action:** **Authorize Notice and schedule an "opt-out" hearing if you wish to consider declining participation.**

Minutes Backlog-Action Item

- Task:** Prepare meeting minutes.
- Status:** The July minutes are included in the Board Packet.
- Draft copies of July minutes will be provided for approval the second week of August.
- Action:** **Consider approval of the July minutes.**

District Bank Account-Report

- Task:** Assist in opening District bank account.
- Status:** The Terms of Service for the District's proposed account contained terms that the Library District cannot agree to under the *Colorado Constitution* and state law. DFrnan forwarded a comment letter from SVWPC to the bank which has requested a redline. That has been forwarded.
- Action:** None required.

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.

Changes have been made as discussed in Executive Session. Most exhibits have been prepared. They will be discussed with the President and Vice President in preparation for a meeting with the City staff on the 16th.

Action: None required.

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.
7. Draft proposed Civic Center License Agreement. (1st Draft Completed)

Procurement/Purchasing and Services Contracts-Completed

Task: Prior to obtaining a bank account, the District is expending money from the BPL Library Fund. The expenditure of these funds is subject to laws and regulations that apply to the City that may not apply to the District. In addition, there are laws that apply to the District that do not apply to the City. We need to coordinate with the City to ensure compliance.

Status: A meeting was held concerning coordinating processes.

Action: None Required.

Library Tax Receipts-Report

Task: Move tax receipts held by the county treasurer to 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

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

Status: Library District's seldom financing 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.

Proposed Bylaw Amendment-Action Item

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: Consider approval of Bylaw Amendment.

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.

