

FORT LUPTON PUBLIC AND SCHOOL LIBRARY
LIBRARY BOARD AGENDA

Regular Session

Thursday, September 19, 2019 7:00 PM

425 S. Denver Ave, Fort Lupton, CO 80621

**Please send changes, additions, corrections to the agenda to Beth or Sarah
If you cannot attend, please notify Sarah 303-857-7180**

I. Call to Order 7:01p - Ms. McWilliams

II. Roll Call Ms. Holton took roll

Mary Flos, Teri Kopfman, Melia Inge, Gerri Holton, Beth McWilliams, Sharon Ceretto (on phone), Bill Victor excused – Have a quorum

III. Approval of Agenda Ms. McWilliams verified that everyone had a copy of the agenda and asked if there were any changes. Ms. Holton asked to have the CALCON topic added to the agenda.

Ms. Holton moved to approve the agenda Ms. Inge seconded the approval, the agenda was approved

IV. Approval of Minutes Ms. Inge moved to approve the minutes, Ms. Holton seconded July 18, 2019 minutes were approved

V. Public Comments There were no public in attendance, and no public comments

VI. Reports – Ms. McWilliams clarified that the reports from the city and the school district should be reports concerning the library.

i. City Report

Ms. McWilliams asked if there was anything new from the city, Mayor Stieber said there was nothing new.

ii. Weld Re-8 Report

Ms. McWilliams asked if there was anything new to report from the Weld Re8 school district, Mr. Adame said there was nothing.

iii. Director's Report (written) Ms. Frank also mentioned that they had not received the budget forms yet so that topic was being moved to September and should be getting them this month but do not have them yet.

Ms. McWilliams asked if there were questions for Ms. Frank

Ms. Holton asked if the budget (financial) year to date the budget was \$114k and we have spent \$622k does that mean more expenses come in at the end of the year? Does that mean we are under budget? Ms. Frank confirmed we are underbudget, but we do have more expenses coming in this year.

Ms. McWilliams identified that with the yearend we are at \$8,590,000 and that is pretty good, closer and closer to the new building mark.

Any other questions for Ms. Frank?

iv. Committee Reports

1. Sunshine Fund (Ms. Holton)

Ms. Holton said there is no change in the balance of the Sunshine fund at \$21.60.

VII. Continuing Business

i. Library Governance

Ms. McWilliams welcomed Mr. Chmil (John).

Mr. Chmil said he was able to get in touch with Mr. Andy Ausmus about the issue of the executive session piece, addressing an email that Ms. Frank sent for her and Ms. McWilliams in it there was a list and Mr. Chmil said he will be going through the list and asked if anyone has any questions to start off, there were none.

Mr. Chmil began that when he was first contacted there was a question if the board was a "Governing board" or an "Advisory board". He looked at the IGA and applicable library law and statutory provisions, in that bubble he saw that the board was a governing board created by the city and the school to have functioning control. As he has discussed the issue more with the city. Have not yet gotten all three attorneys on a phone call but have all discussed the issues (primarily the city). He provided a letter regarding the IGA and the points that the board would like to be seen. In response to that the city set a meeting with Ms. Frank and Ms. McWilliams that met with city staff and city attorney to discuss the overview. The result was a list of opinions from the city clearing up where the library stands with what the city believes. Moving forward from there. The city believes, and the school understands as well that the board is an advisory board for the city. Which means they are a Public board is subject to all of the restrictions of open meeting always and have to post agenda and minutes for the public. As described will have initial boots on the ground information the city expectation is that all information would flow through the library board to the city. including things like personnel decisions and clarifying that all library employees are city employee so that is how those issues would be handle. If there is a concern in the library, it would be handled at the city level.

There is not an appetite from city or school to renegotiate the current IGA it is their opinion the library board was established to maintain more of a committee to provide information to the city they will maintain that relationship until they deem otherwise.

Ms. Holton asked if that is in conflict with Colorado Library Law.

Mr. Chmil replied that no the issue initially was that an IGA was set up by joint authority, Library law is a bit confusing because library law covers all types of libraries. The Fort Lupton Public and School library is a joint library which means it exists by nature of the contract (IGA) between the city and the school district

that created it which means they have ability to control the mechanism of what applies and what does not. What was missing from Mr. Chmil's initial review of his initial look at the relationship was the city's intent for a general governance structure and how much control the library would have at the first level, creating budgets and whatnot before going up to the city for their final blessing, on any major decision.

As things have come up such as the potential purchase of property and constructing a new library, that is where city felt they needed to step in provide clear directive and expectations as to what the library status was with respect to the city. In issues such as property ownership or financing it is the city's position that the library is not an independent entity. The city maintains fiscal control and responsibility and the library will always be subject to review and approve by the city. Any property deal would have to be financed in the city's name because the library does not exist as a stand-alone entity that could hold a title to property. It always has to go to the city for fiscal control and management. They see that yes you can have input on things like creation of the budget and prioritizing with a specialized knowledge of what goes on in the library that ultimately, they are subject to review and approval by the city.

Ms. Holton stated that that is not reflected in the original IGA, it is not it is spelled out in the IGA from what she read it said that the management of the library goes to the library board.

Ms. McWilliams ask if she meant the last IGA or the original.

Ms. Holton confirmed that she does mean the original IGA

Mr. Chmil said that when you go through...

Ms. Holton said she is referring to when it was set up

Ms. McWilliams said that the library has to go by the current IGA, the one that was last signed because that is the legal document.

Mr. Chmil said he believes Nov 2013 IGA that was the initial one that established and ran through the duties and there was the three party one from 2016 with High Plains that is still in a state of potentially being restructured. It appears that in paragraph #5 from the IGA that discusses management of the library that, there is some level of ambiguity. In the intent that make it look like there is some level of autonomy in the running of the library.

Ms. Holton asked if that is the one that was signed by the library.

Ms. Frank answered that no it was just signed by RE8 and the City.

Mr. Chmil said that this would have been the organizing document. The city and the school district came together, and the attorneys drafted this document to create this entity which under the library law is considered a joint library and the reality of that situation is the authority of a joint library can always inherently be limited by the contracting parties that established it. Which is where we have gotten to when trying to renegotiate or negotiate a new IGA. Ultimate is subject to the status of the city and school district and the library has less bargaining

power when they say, “this is how we think this should go” The big retention on the city’s part is of fiscal control, making the final decision on any financial expenditures and ultimately the budget as well.

Ms. Holton said that we had a legal opinion in 2003 about this exact same situation and got a different opinion, at that time in the 2006 IGA (asked if anyone had the 2006 IGA – Ms. Frank said she could go pull it) the 2006 IGA reflected Colorado Library Law and was overturned by (she believes) the 2007, and the 2013 IGA was a reversal of 2006.

Ms. Holton stated that this was done with legal opinions, looking at this exact same issue. Her hope is to settle whatever it takes to everyone’s satisfaction, no matter who is on the board, who’s on the city council no matter who the school administrator is that it reflects the law and how the library is run. It seems like this issue comes up with every IGA. That it must be renegotiated and refigure out. She said she understands this happens when the law changed. She said she was on the library board from 1988 for 18 years had an attorney come who said it was a not an advisory board it was governing board and they had to cut down on the numbers and had to come into compliance with Colorado library law. She asked if Library Law has changed.

Mr. Chmil said the board is set up under library law and the IGA is set up in compliance. The reality is that this board is and is limited by the agreement between the city and the school district.

Ms. Holton asked what would happen if the city and the school district decided that the library was not going to be a joint library any more, it would all go away, the library would not be a library anymore and the assets would be split.

Mr. Chmil stated that it will always be reliant upon the two organizing entities with similar functions. If one of the parties decided they did not want to continue, then the library could negotiate with the remaining party and establish a similarly functioning library under library law. But and yes the city and school district could decide to terminate the joint library which would cause the disillusionment of all assets. According to their agreement.

Ms. McWilliams asked for verification from Mr. Hanes that it would break the High Plains Library district contract.

Mr. Hanes said it would not break the High Plains district but that it would break the FLPSL out of the district.

Ms. McWilliams asked if the tax dollars would stop.

Mr. Hanes said that the mil levy would stop so the dollars would stop.

Ms. Inge stated that while there was a lot of back and forth of who can do what and what the library can do, the bottom line is that ‘you do not want there to not be a library in town.’”

Mr. Hanes said that is not likely to happen.

Ms. Inge said like all the other committees that are set up there will always be a library and a library board. We talk a lot about the need to embrace the relationship between all three of us, four if you count the High Plains library board. Semantics is important, but that is all this is semantics. The library is not going away it is not going anywhere it is only going to get bigger and stronger as the community gets bigger and stronger and the role that it plays gets bigger. Knows that we need the IGA, so everyone knows what's what and that High Plains has all of their stuff in a row too, but it is just getting to the point of semantics.

Ms. Holton said that she does agree that it is in our best interest to all come to the right agreement for everybody. From a High Plains stand point, looking at the member libraries a lot of it depends on our cooperate with each other and collaborate with each other for the member library model. And for their money. It is in our best interest and in the best interest of the patrons for us to work together. She thinks it is a little more than semantics just in terms of what happened in 2012 when the school and the city were making decisions for the library without the library board. That is not the best way to work together to decide what is best for the library. The library board in terms of doing the management about programing it does need to be part of the decision making, it not make any sense for them not to be part of that decision making.

Ms. Stieber added that ultimately it is the two parties within the contract that need to make those decisions. She understands the history, but it falls to the city and school to ultimately be responsible.

Ms. Holton said she does not read that but she is not a lawyer and that there had been a different lawyer come in, if she read the 2013 IGA right the budget would be decided by the city and she is not sure how that would happen if the with programming how the city would make the budget.

Mr. Hanes said that technically the library is a department of the city and so it comes to the same budget process of any other department

Ms. Holton said it never did that before.

Mr. Hanes said he did not know how the library did it with the school.

Ms. Holton said with the school, the board would create the budget and would present it to the school, and they approved it.

Ms. Stieber observed that it is just the same that someone did approve it. It was submitted and approved. It is the same process just a different hat now.

Ms. McWilliams said that in the last IGA, the 2013 IGA, which was the last one since she had been on board now report to the city there has not been an issue with the budget. They present it, are asked do you have the money to pay for it, has your board looked at it and approved it. If the board has approved, then the city approves it. If those boxes are checked, same way with the school district the board said "hey we want to ..."

When we wanted to build a new library, we went to both the city and the school district and they said do you have the money because we are not going to pay for anything. Do you have a means for doing this, are you going to get a plan together then they are ok with it. As long as the board has a really good working relationship with both the school district and the city they expect this board to come up with a plan, to come up with budget and to come up with everything and present it to them, if it is sound judgement they will approve it, they are not going to change things just to change them they are looking to the board for guidance. That may not be governing but it's pretty darn close. We might not sign the contract, but we have done all the negotiating for that contract.

Ms. Stieber stated that is exactly the function of an advisory board to tell us what you think you can accomplish, what you have the means to accomplish and then go out and get it done.

Ms. Inge: The City and School delegate.

Ms. Stieber: Same as the city delegate to other departments like the managers of the golf course

Ms. Inge: exactly they are delegating there and to the rec center and every other advisory board

Ms. Holton: as a board consisting of school representative and city representatives, she is confused about bylaws reporting to the city at the end of each year. If as a city representative she feels like she should be part of the discussions at the city meetings and/or city workshops as part of city council.

Ms. Stieber stated when we appoint someone to a committee or senior board we look at the minutes, we understand that you are talking about the topics at your meeting and we take it from there, the report is the report there is no other opportunity changes to make a single voice heard outside of the group voice, so make sure your reporting is consistent.

Ms. McWilliams: That is what the school district does also, they review the minutes, they are given them, and the city is given them, we can have a conversation but have never asked

Mr. Adame stated you are always welcome to come and present at a school board meeting

Ms. McWilliams agreed and stated that this is what Mr. Kaylor has also said.

Ms. Stieber acknowledged that sometimes the meetings are 3.5 minutes long

Ms. McWilliams want to make sure this board has a really good working relationship with both the school and the city, it is imperative because that is what got into trouble back in 2012 and the lawsuit. Feels that the lawsuit was brought about through grumblings within the board amongst each other and with everything else. She does not want anything like that to happen again.

Ms. Holton said that is why the IGA is so important. It has been stated twice that there is a really good relationship, if there continues to be a good relationship the IGA needs to reflect the operating.

Ms. McWilliams: in my opinion it does. It says that we need to have a director who runs programs and provides services to the community and the school district, but the money is handled by the city and the building is handled by the school and we can give our input, but it is ultimately the city's decision, the IGA states that.

Ms. Inge: We need to appreciate that because while this group knows a lot about libraries about the functions and the programs and what they are supposed to do, I do not want to be doing payroll

Ms. Stieber: Or staying on top of payroll law

Ms. Inge: We need to appreciate the function of the book keeping services if nothing else, we have a working relationship and we appreciate each other's roles. Even in a perfect world a legal document is not going to keep people from squabbling if they are going to squabble. And the attorney can attest to that.

Mr. Chmil agreed that is true.

Ms. Holton: I think that there would not have been an issue at all if it was stated that this was in compliance with Colorado library law, it all started with legal opinion

Ms. Stieber said she thinks that ship has sailed.

Ms. Holton said only other question is are we a library district?

Ms. Stieber: No, FLPS library is not a district, High Plains is, FLPSL does not have the funding to be a district, we derive our funds from a district but are not a district.

Mr. Chmil: Ultimately that is the function and purpose the three party IGA is to set up a district. When a district is first set up as a standalone district, municipalities have the option to opt in, if FLPSL disbands it will not impact High Plains, except perhaps where the boundaries lay. A city department is a good analogy of what the library roles are with programing and new ideas or how to improve things bringing what we see we can pay for, with only the final say being from the city and school, we bring the expertise as the function of the library.

Ms. Holton: what about insurance? Do we need liability insurance?

Mr. Hanes observed that it was a good question.

Ms. McWilliams stated that we do currently have it, Leanne made us buy it when we said we were a governing board.

Mr. Hanes said Leanne is trying to figure out what you were, it was a very grey area. Sarah comes to our department meetings, and we provide a lot more than just payroll. We feel like you are a part of us, so the insurance question is a good question.

Ms. McWilliams: Cirsa said no, when we said we were part of the school too, they said if the school is part of the mix Cirsa would not insure us, that we as part of the school need to get our own insurance.

Mr. Hanes said that sounded correct because the building is the schools.

Ms. Stieber: At this point

Ms. McWilliams: They said we need to get your own, we were not housed in a city building have school district appointees, so they did not want to cover.

Ms. Holton do we need to get approval for expenditures and contracts from the school as well?

Mr. Hanes: No because the IGA assigns fiscal responsibility to the city.

Ms. Stieber added that if it gets dicey, we can certainly ask.

Ms. McWilliams said that the school board was asked about the new building, it was presented and discussed at a couple of different meetings.

Ms. Stieber stated that ultimately, we serve the same community.

Ms. McWilliams said in the IGA that we have to do that.

Ms. Holton said then we have to run everything past both entities.

Mr. Hanes said do not have to run everything.

Ms. McWilliams: Not everything, but the new building, purchases, land purchases, acquisitions have to go through both, definitely land purchases have to go through both.

Mr. Chmil clarified that it is for Capital Improvements and upgrades put forth the decision making and funding in the IGA.

Ms. McWilliams: We need to cross our T's and dot our I's. Are there any other comments or concerns? Gerri has concerns.

Ms. Holton said she hopes that the board can go to CALCON (Colorado Association of libraries Conference). There is a session on library governance in the conference. Would like to know where everything in on the IGA.

ii. IGAs – City & Re8 and 3 way with HPLD

Ms. McWilliams number two IGA with the city and RE8, they are separate the other is the three way with HPLD. City and the school are satisfied with the current one, already talked about it and asked where the progress is on the three way.

Ms. Frank has a draft, (handed out) and will send ecopy out tomorrow.

Ms. Inge In the past, there had been questions with past IGA with HPLD of who was the signor?

Ms. Frank said they take two signatures.

Ms. McWilliams said this one only shows the Mayor, not Re8

Ms. Stieber said we are the exception throughout.

Mr. Hanes said they are going back to the suit, but with the IGA both entities need to sign.

Ms. Inge: HPLD preferred not to have two signers.

Ms. Stieber stated they prefer not to but that they will.

Ms. McWilliams asked about the president of the school board.

Mr. Hanes asked about the rest of the branches vs cities.

Ms. Frank said regarding the addendum update the member directors are meeting on the 3rd of September with Matt to go over services in the addendum.

Ms. Inge asked about concerns.

Ms. Frank identified that there are still some concerns about services, because they have not addressed all the ones that have been worked on for the past year.

Ms. McWilliams asked Member library directors and Matt, Ms. Frank verified that it was.

Ms. Frank said that there is a meeting on the 25th of September where they would like two board members to attend

Ms. McWilliams said because Ms. Holton is a HPLD member we should send 2 additional members if three attend it needs to be posted publicly.

Ms. Stieber asked about it being posted as a public meeting.

Ms. McWilliams said we have to post it here, normally HPLD meetings we do not usually post them here.

Mr. Chmil said to add the title and posted as agenda.

Ms. McWilliams we do normally do not post HPLD.

Ms. Inge asked what the date of the meeting was.

Ms. Frank identified September 25 from 5-7.

Ms. Ceretto asked where the meeting was.

Ms. Frank said it would be a DSS (District Support Services) in Greeley.

Ms. Ceretto said she would like to attend.

Ms. McWilliams said she would like to attend as well.

Ms. McWilliams said that on 9/25 from 5-7 Ms. Ceretto and Ms. McWilliams would attend the meeting.

Ms. Ceretto verified that it would work.

Ms. Inge verified that there will be one more meeting before this meeting to makes sure that everything is covered.

Ms. McWilliams asked if Mr. Chmil had anything else to add.

Mr. Chmil said he did not, Ms. Frank had sent a list as a city directive, with a good synopsis, it is a good comfortable, functional relationship.

Ms. McWilliams said that in her time on the board they have had three executive sessions addressing personnel, hiring Ms. Frank. She met with Andy (city attorney) he said they should not have had executive sessions.

Ms. Frank said Andy said Advisory Boards do not handle personnel issues.

Ms. McWilliams said from now on, personnel issues go to HR and to Mr. Chris Cross.

Ms. Frank corrected that they go to Mr. Chris Cross and then on the HR.

Mr. Chmil said that this is one of those areas the board defines executive sessions intent of the executive session move forward personnel, personnel is just a pass through.

Ms. McWilliams said it is just a pass through.

Mr. Chmil said if he was going to provide legal advice, protect attorney client privilege and maintain confidentiality. Andy is not aware of too many situations where it would apply. If it does come up the board should reach out to Mr. Chmil, he would contact Andy and each situation would be judged case by case.

Ms. Stieber asked about contract negotiation for hiring.

Ms. McWilliams said it is handled by Ms. Frank and the city.

Ms. McWilliams we only hired the director position, that came from the city and they asked the board to interview and make recommendations.

Ms. McWilliams asked if there was another question for Mr. Chmil - there were not.

VIII. New Business

New business

Ms. McWilliams asked what is the acronym for the conference and when is it?

Ms. Frank it is the Colorado Association of Libraries Conference (CALCON) September 19, 20, 21.

Ms. Holton said there is a trustee track with lots of information and library board training.

Ms. Inge: One of the days is a Friday, is there an ala cart option?

Ms. Frank: Yes, people can go for just one day

Ms. Flos asked if there is budget to send people.

Ms. Frank verified there are funds in the budget.

Ms. McWilliams pointed out that the 19th is the day of the next board meeting.

Ms. Frank said the sessions are normally done by 5:00 PM.

Ms. McWilliams said she will try to be there for the meeting. She will be flying back Thursday night from a business meeting. She asked Ms. Frank to send information, she also said they could carpool but no more than two members in the carpool otherwise it must be posted, should post anyway. Asked that it be posted.

IX. Development of next meeting agenda:

Budget

HPLD IGA - before going to meeting on Wednesday

Building

Have or will have had a public design meeting workshop

Ms. McWilliams said have not done that but maybe in oct anything else?
Would like to have a meeting of board and staff with at the next workshop (September or October)
No other business

X. Adjourn

Ms. McWilliams adjourned the meeting at 7:55

Next Meeting: September 19, 2019 at 7:00 PM in the library conference room.