

MEMORANDUM

TO: Board of Trustees- Poudre River Public Library District

FROM: Seter & Vander Wall, P.C.

DATE: October 7, 2013

RE: Legal Status Report for the October 14, 2013 meeting of the Board of Trustees

This is our legal status report for the Trustees meeting scheduled for October 14, 2013.

Renovation of Main Library: Spec. and Contract for Diagonal Walk & Stage

MATTER: The referenced contract has been prepared, reviewed and advertised for bids. The bids were received and opened after the board meeting.

STATUS: At the August meeting, the Board approved awarding the contract prior to the September meeting and to authorize execution of a contract within certain parameters. The Contract for diagonal walk and stage improvements was awarded to Hoff Construction. The Contract was reviewed and approved by Counsel. Construction was slated to begin on September 23, 2013.

ACTION: None requested by counsel.

Governmental Immunity for Motor Vehicle Research

MATTER: PRPLD has been renting City vans to transport youth as part of an outreach program.

STATUS: Counsel was directed to prepare an update to its policies to protect PRPLD from personal injury liability. Counsel was further directed to investigate the coverage provided by the District's insurance policies. Counsel provided a draft policy to the Executive Director at the September meeting

ACTION: None at this time.

Important Case Update: *Johnstown v. High Plains Library District*

MATTER: We have repeatedly confronted counties and towns that have removed property and tax base from library district boundaries. Over the past 18 years we have utilized the courts in an effort to define the statutes to preclude the removal of property from library district boundaries. The *Westminster (Jeffco)* Case determined that property could only be

excluded from a library district at the time of formation. The *Wellington (Ft. Collins Regional/Poudre River)* Case determined that property annexed to towns that were excluded from a library district at formation is not automatically removed from the library district. You may recall that we did not appeal the *Wellington* case because we were victorious but that language in the case was of concern.

STATUS: The Colorado Court of Appeals ruled that an agreement to change the boundaries of a library district is enforceable because it falls within the statutory authorization for an agreement that “does affect the financial support of the library district.” The court noted that it was giving great deference to the opinion in *Wellington*. The Court recognized the problems inherent in the *Wellington* interpretation of the statute and, accordingly, reversed the award of attorney’s fees to the Town of Johnstown. The High Plains Board of Trustees determined to appeal to the Colorado Supreme Court. The Supreme Court has total discretion whether to accept the case.

ACTION: None required.

Urban Renewal Authorities and the TIF

MATTER: Advise the board with regard to the possibilities of reducing tax increment financing opportunity costs.

STATUS: See any reports from the URA committee.

ACTION: None required.

Sublease of 256 W. Mountain Avenue

MATTER: The Trustees approved subleasing 256 West Mountain Avenue and the storage unit on Mason Street to the Friends of the Library for sorting and storing books.

STATUS: I have contacted the City Attorney’s office to prepare a lease for the storage area which can then be subleased to the Friends. The City’s real estate person is looking into the status of this as it is “still on her desk.” There does not seem to be much urgency in this regard.

ACTION: None required.