
MEMORANDUM

TO: Poudre River Public Library District

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

DATE: November 3, 2016

RE: Legal Status Report for November 14, 2016 Board Meeting

This is our legal status report for the Trustees' meeting scheduled for November 14, 2016.

City Request for Information re Solicitation at Council Tree

Task: The city attorney called seeking information. City Council members received a threat from a patron claiming to have been removed from the library area and outside area while electioneering. Suit was threatened against the library district and city under the *First Amendment*.

Status: We forwarded our analysis to the city attorney and have had no further correspondence concerning this matter. It will be removed from the December Status Report.

Action: None required.

2016 Election Question[s]

Task: The Board approved a Resolution calling for participation in the 2016 election to address the potential TABOR refund. Formulation of the final question was postponed until the City of Fort Collins determines its approach to this matter at a meeting planned for the 6th of September.

Status: Information was provided to the newspaper that resulted in an endorsement of the election question. Preliminary election results show that the request to retain funds was approved 67.49% to 32.51%. The results will not be final for several days. It is very unlikely that the results will be reversed.

We received several CORA requests and questions by telephone from unidentified callers. The City has received numerous email messages from Mr. Sutherland concerning its ballot question. Threats of litigation

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continue. We will provide an analysis if any new threat is made against the District.

Action: None required at this time.

Election Law Compliance

Task: Inform staff and the Board of election law limitations that apply to the 2016 Ballot Question per the request of Interim Director Draves.

Status: E. Sutherland took photographs of election tables at libraries and of the library's distribution of factual materials allowed by law. However, no action was taken by him to challenge those materials. This matter will be removed from the December Status Report.

Action: No Board action required.

Security Policy Review

Task: The District will be installing security cameras at the library locations. Interim Director Draves rightly noted that the security policy should be updated for this purpose. We will review the draft policy and suggest changes for your consideration. First reading will be in September and second reading in October.

Status: The draft was approved on second reading with changes. This matter has been completed and will be removed from the December Status Report.

Action: None required

Important Case Update: High Plains Library District, et. al. v. Kirkmeyer, et. al.

Task: A majority of the establishing entities of the High Plains Library District ("HPLD") approved removal of the entire Board of Trustees at once. The towns then passed a resolution appointing new trustees consisting of several town mayors, county commissioners, and the president of the school district board.

Status: We were retained by the Colorado Association of Libraries ("CAL") to file an *Amicus* Brief on its behalf in the Court of Appeals. An *Amicus* Brief (meaning "friend of the court"), allows CAL to submit a brief explaining the impact this case may have on all libraries and the appropriate interpretation of the Colorado Library Law.

We were successful in establishing legal standards for the removal of

library trustees. The case was remanded for consideration of the process for appointing the new trustees.

It now appears that the City of Greeley has become more active in this case and the settlement previously reported may fail. We may still have the opportunity to clarify the appointment process.

Action: None at this time.