



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: September 7, 2023

AGENDA TITLE

Update and request for direction regarding the Intergovernmental Agreement with the Boulder Public Library District

PRESENTER

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EXECUTIVE SUMMARY

Staff requests direction from the City Council on two issues that are being discussed between the Boulder Public Library District and the City of Boulder. The issues include:

1. Disposition of real property.
2. Selection process for Board of Trustees.

Also included in this Memorandum is an update on the transition from the municipal library to the library district.

Discussion Questions:

Staff requests council members to discuss their views on the following issues:

1. Which appointment process for the Boulder Public Library District Board of Trustees does the council support being established in the final IGA?
2. Does the council agree with the staff recommendation to transfer ownership of the city's real property assets to the Boulder Public Library District?

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** - The property tax mill levy is estimated to sustainably fund library services at the library master plan service expansion level. The cost of library services will be shared by more taxpayers because, in addition to the city, Boulder County properties outside of the city limits are included in the Library District.
- **Environmental** - The environmental impact of forming a library district is negligible. Expanding library services into unincorporated Boulder County may have a slight impact by reducing community members' car trips into Boulder to get library services if the district is funded to level so it can establish new library facilities.
- **Social** - A robust library system creates educational, cultural, and recreational opportunities for all community members and visitors. Stable funding will allow the library district to extend its reach further into the community to marginalized and underserved members as well as provide more convenient access to services for members who reside in unincorporated Boulder County. A library district board of trustees is solely responsible to the community for overseeing how the library's budget and other resources are used to provide library services.

OTHER IMPACTS

- **Fiscal** - Ultimately, the formation of the Library District with voter-approved funding through property tax revenues will eliminate the need for the city to provide library services. It is estimated that \$9.5 to \$10.25 million could be made available to fund other city priorities.

BACKGROUND

The conversation about forming and funding a library district has occurred several times over the past few decades. It was most recently resumed during the 2018 Boulder Public Library Master Plan process.

From 2018 through 2022, City Council examined several options for sustainable funding for the library and deliberated about continuing with municipal governance of library services or transferring library services to a library district and pursue voter approval for funding.

State law provides for two processes to form a library district. The first is a cooperative process where the governmental entities within the proposed district's service area pass resolutions to form a district. The second process is based upon a petition of at minimum, 100 electors residing in the proposed district's service area and submitting the question to a vote of the electorate.

On April 5, 2022, council held a public hearing jointly with the Board of County Commissioners for Boulder County ("BOCC") about its consideration to adopt a resolution to form a library district. Council adopted Resolution 1305. On April 21, 2022, the BOCC rejected a resolution to form a library district. The BOCC's rejection of the resolution ended the process of forming a library district by resolution.

The Boulder Library Champions submitted a petition to the BOCC to create a ballot item to form and fund the Boulder Public Library District. The Boulder County Clerk and Recorder's Office certified the petition "Library District serving the City of Boulder and surrounding unincorporated Boulder County areas" on May 31, 2022. The voters within the boundaries of the Library District ("District") approved the formation of the District together with the authority to levy a property tax to fund District services on November 8, 2022.

In the spring of 2023, the City Council and the BOCC recruited and appointed a seven-member Library Board of Trustees. Since then, the city, county, and the District have been preparing for the transition from municipal to library district services.

Pursuant to state law, an interim intergovernmental agreement ("IGA") between the establishing entities (city, county, District) was executed within 90 days from the appointment of the Library Board of Trustees. The council approved the interim IGA at its June 15, 2023, meeting.

Presently, the parties are in discussions with the objective of reaching mutually acceptable terms for a final IGA by October 31, 2023, with a goal of transferring management and operation of the Boulder Public Library from the city to the District on January 1, 2024. This date may need to be adjusted based upon the practical issues associated with the separation. The final IGA will describe the rights, obligations, and responsibilities, financial and otherwise, of the parties to the agreement.

ANALYSIS

City staff have been meeting with representatives of the District regarding the terms and conditions of separating the municipal library from city systems and services. Many of the topics are rather technical in nature, such as information technology software and

hardware separation, human resources policies and practices for the transition of city employees to the District, revenue sharing from dedicated revenue sources, and reimbursement to the city for 2023 expenses associated with the municipal library. There are also practical separation issues for areas where the city continues to need the use of some of the library buildings for information technology infrastructure and the space in Building 61 that is used for the offices of Communication and Engagement and the studio for Channel 8. The parties are making progress in identifying and resolving these issues.

Staff would like council feedback on two issues related to the separation of the municipal library from the city and its transfer to the District.

1. Which appointment process for the Boulder Public Library District Board of Trustees does the council support being established in the final IGA?

The Colorado Library Law provides for two different options for the appointment of library district appointees.

The initial board of trustees is appointed by a committee that consists of two members of each of the legislative bodies. Thereafter, the trustee appointments are ratified by a two-thirds majority vote of each of the legislative bodies. The City Council and the BOCC completed this process in May 2023. After the initial board of trustee appointments, new trustees can be appointed in one of two ways:

- a. By continuing the practice of the initial appointment of the board with the committee from the city and county; or
- b. By delegating the responsibility for appointing trustees to the Library Board of Trustees.

In either case, the City Council and the BOCC will need to ratify the selected trustee(s). In the event that either body does not take action on the ratification, the members are deemed appointed after 60 days.

Discussion

In discussions with the District and the county, a hybrid approach has been identified. It includes continuing the initial appointment process and allowing the Library Board of Trustees to participate in the selection process by allowing two members to be a part of the selection committee as non-voting ex officio members. This process would continue for three years, at the end of which the parties would look at how it is working and consider whether the process should continue, or if the responsibility for selecting trustees should be delegated to the Library District Board of Trustees.

Staff Direction

Staff recommends pursuing the hybrid approach to trustee appointment. It has two distinctive advantages. First, it provides the District hands-on experience with the

appointment process in the early years. It also provides a time where the parties can evaluate how the process is working and make changes as needed.

2. Does the council agree with the staff recommendation to transfer ownership of the real property assets to the Boulder Library District?

Discussion

The city has five branch libraries including the Main Library in the Civic Area, George Reynolds Branch Library, Carnegie Library for Local History, Meadows Branch Library, and the NoBo Corner Library. Also, the new North Boulder Branch Library is under construction. Staff anticipates that the branch libraries will be conveyed to the District without monetary compensation. The table below describes how staff is looking to convey property interests to the District.

Facility	Ownership	Conveyance
Main Library 1101 Arapahoe Ave.	Fee Simple	Fee simple for the building. City retains the land. License and management plan for the use of the surrounding civic area and parking lots.
Carnegie Library 1125 Pine Street	Fee Simple	Fee simple for building and land.
George Reynolds 3595 Table Mesa Drive	Fee Simple	Fee simple for building and land.
North Boulder 4540 Broadway	Fee Simple	Fee simple for building and land. The building is presently under construction. A subdivision will be required to separate the library site from other adjacent municipal land.
Meadows 4899 Baseline Road	Lease	Assign lease to the District.
North Boulder Corner Library 4600 Broadway	Lease	Assign lease to the District or have the District pursue a new lease. Current term expires December 31, 2023.

For the library properties that are not leased from a third party, staff is suggesting that the city convey those properties to the District. The reason for conveying the properties rather than leasing include:

- Historically, the land and buildings have been funded by taxpayers. This will continue with the District.
- The District will be responsible for insurance, upkeep, maintenance, and improvements to the properties.
- Avoids a landlord-tenant relationship. A clear separation also results in unnecessary entanglements for the city and the District.
- Allows the District to set its own building, maintenance, and service standards.
- Allows city Facilities staff to focus on other core city services.

- Allows the District to have assets that can be leveraged for bonding purposes or certificate of participation financing for future projects.

Ownership and Conveyance of Properties Providing Library Services

The city owns all of the library properties that are not leased in fee simple. This means the city has the absolute right to use the land with the freedom to dispose of it at will. There have been some discussions about what happens when one of the fee simple properties is subsequently no longer needed by the District. Two approaches have emerged in conversations with the District.

1. **Right of first refusal.** This has been proposed by the District. If a fee simple property is no longer needed by the District, the District would offer the city an opportunity to purchase the property before it would be sold to a third party. The city would be expected to pay market value for the property. The thought is that these properties are presently put to library use and that any revenue generated by the sale of a property would continue to be used for library purposes.
2. **City to retain some type of reversionary interest.** The city has explored the reversionary approach to conveying the fee simple properties to the District. In this scenario, the city would retain property rights necessary to have a property returned to the city if it is no longer needed by the District. This would allow a property to continue to be used for public purposes without paying for a property a second time or allow the city to waive its reversionary interest after a community conversation.

Staff Direction

Staff recommends the city retain some type of a reversionary interest in some or all of the properties owned in fee simple that will be conveyed to the District. This will help to ensure that there is an opportunity to continue to use the properties for public purposes. All of the leases would be assigned to the District.

NEXT STEPS

1. Negotiation of the final IGA.
2. Presentation of the proposed final IGA to the City Council and the Library Board of Trustees for final approval.