



STAFF REPORT

DATE: May 16, 2017

REGULAR

ITEM #: 16

MOTION

TO: City Council

FROM: Kristina Handt, City Administrator

AGENDA ITEM: RESOLUTION REGARDING LIBRARY SERVICES IN THE CITY OF LAKE ELMO

BACKGROUND:

On January 3, 2017, the City Council approved a motion 5-0 to direct the city administrator to resume negotiations with County staff regard returning to the County library system. Since that time, I have met with County staff multiple times and have attended three library board meetings.

A resolution that had been worked out by staff was presented to the Library Board in April. The library board had some questions and asked for some changes. A revised resolution was then presented at a special library board meeting on May 3rd. The library board made four amendments to that resolution:

M. dollar amount was changed from \$200,000 to \$100,000

J. Sentence added that reads "Volunteers will be given meaningful volunteer involvement in the Lake Elmo branch library"

G. Add a sentence that reads "If the county closes the Lake Elmo branch library, the City will receive the land, building, and contents back by quit claim deed"

C. Sentence changed to read ...a minimum of 40 hours per week **including some weeknight and weekend hours** for a four year period... (bolded words were added)

Following the meeting, I shared the amended resolution with the County staff. County staff responded that they could not support the changes. The county offered the following comments and suggested changes:

Instead of adding language stating "including some weeknight and weekend hours" I think we should note that operational decisions will remain with the county and we will treat Lake Elmo's hours in a fashion similar to the Oakdale, Mahtomedi and Valley branches.

The language, "if the county closes the Lake Elmo Branch Library, the city receives the building, land and contents by quit claim deed", is not something that staff could recommend. We are excited by the possibility of incorporating the Lake Elmo Library in Washington County Library, however we cannot agree to the proposed language. While it is challenging to consider the potential operationalization of this concept years down the line, it seems more appropriate to state that the contents of the library, (identified as those items in existence at the time Lake Elmo Library rejoins Washington County Library), would be returned to Lake Elmo should Washington County Library decide no longer operate the Lake Elmo Library. I cannot recommend language that would turn over future County investments in the Lake Elmo Library. This practice would not be consistent with the practices in place when other city libraries have joined Washington County Library.

The language, "volunteers will be given meaningful volunteer involvement in the library" is open to interpretation. Instead of debating the definition of "meaningful", I would suggest that volunteers at the

Lake Elmo Library will engage in activities similar to those occurring at other Washington County Libraries. Instead of trying to list all opportunities, I would direct you back to our volunteer handbook and note that volunteers cannot be used to displace employee work and volunteers will not have access to private patron data. Volunteers will have many opportunities to engage in work that supports our mission and our strategic plan. As a note, on Sunday, April 30 over 150 Washington County Library volunteers were invited to a recognition luncheon at the Oakdale Library. This event celebrated the work of the many volunteers at all Washington County Libraries.

As we discussed on the phone yesterday, I am concerned with the change in the amount of funds that will flow to Washington County to support the transition and implementation. The targeted number moved from \$200,000 to \$150,000 and now it is at \$100,000. With a number of items necessary to make the transition and begin to address facility concerns, the reduction in funds will impact our ability to provide the best possible transition. Additionally, while I recognize that the Lake Elmo Library Board has the authority to expend funds until the official date of transition, I am concerned that some of the potential plans to expend existing funds may not align with and support the transition.

In addition, a separate agreement addressing insurance and liability issues would be needed with respect to the use of the community room.

This information was shared with the library board ahead of their May 3rd meeting and discussed by the Board later that night. The Board decided to stay with their previously amended resolution and further passed a motion that if I go back to the Washington Co representatives that Tom DeGree should be involved.

ISSUE BEFORE COUNCIL:

How should the Council proceed with respect to rejoining the County library system?

PROPOSAL DETAILS:

Included in your packet is a copy of the resolution passed by the Library Board at their May 3rd meeting. If the Council would like to advance that position, they could approve the library agreement drafted consistent with this proposal. County staff has told us they will not support some of the items in this agreement (see notes above).

At each meeting of the library board I attended, I told them we would get Council approval in May and then send the agreement to Washington County so they could have ample time to get through their legislative process well before the July 1 deadline for deciding about the library levy. Initially I wanted to allow the Council two meetings to discuss but agreed to wait until the Council's second meeting so the library could have time to conduct their survey.

Since the library board was not willing to agree to the terms presented to them on May 11th, the other option the council may pursue to get Lake Elmo back into the County library system is to direct staff to provide notice of the city's intention to return the levy for taxes payable 2018. Furthermore, it is my recommendation to cease offering city library services in Lake Elmo immediately. Lake Elmo residents will be able to continue to use their Washington County library cards to access services. Resolution No 2017-049 reflects this.

The Library Board will be holding a special meeting on Monday, May 15th. An update on that meeting will be provided at the Council meeting.

OPTIONS:

- 1) Approve the Library Agreement consistent with the May 3rd Library Board Resolution 2017-01
- 2) Approve Resolution 2017-049
- 3) Direct staff to continue negotiations
- 4) Take no action to make any changes
- 5) Another action consistent with action taken at the May 15th Special Library Board meeting.

RECOMMENDATION:

Motion to approve Resolution 2017-049

- *Motion may change depending on Special LIBRARY Board meeting May 15th*

ATTACHMENTS:

- Library Board Resolution No 2017-01: RESOLUTION REGARDING LIBRARY SERVICES IN THE CITY OF LAKE ELMO
- Library Agreement (per May 3 Library Board resolution)
- Resolution No 2017-049

**LAKE ELMO LIBRARY BOARD
WASHINGTON COUNTY
MINNESOTA**

RESOLUTION NO. 2017- 01

A RESOLUTION REGARDING LIBRARY SERVICES IN THE CITY OF LAKE ELMO

WHEREAS, on January 1, 2012, the Lake Elmo City Council established public library service for the City's residents, pursuant to Minnesota Statutes Section 134.07; and

WHEREAS, upon this establishment, the Library Board was appointed by the City Council which established the Lake Elmo Public Library; and

WHEREAS, pursuant to Minnesota Statutes Section 134.07, the City levies an annual tax on its taxable property for public library service for the library fund that funds the Lake Elmo Public Library; and

WHEREAS, it has been determined by the City that public library service in the City will be expanded if the Lake Elmo Public Library becomes a branch of the Washington County Library System (the "County"); and

WHEREAS, the County's library system is a member of a "regional public library system" as defined by Minnesota Statutes Section 134.001, subdivision 4; and

WHEREAS, pursuant to Minnesota Statutes Section 134.20, subdivision 3, a city which is excluded from the county tax supporting the county's regional public library system under the provisions of Minnesota Statutes Section 134.20, subdivision 3, may, upon recommendation of its library board and upon action by its city council, be included in the county tax and become an integral part of the county's regional public library system; and

WHEREAS, the Library Board is recommending that the City be included in the County tax and become an integral part of the County's library system; and

NOW, THEREFORE, BE IT RESOLVED, by the Library Board of the City of Lake Elmo as follows:

1. The Library Board hereby recommends to the City Council that the City be included in the County tax and become an integral part of the County's library system, provided that the City and the County agree to the following terms:
 - a. That effective January 1, 2018, the City will be included in the County library tax and the City will no longer collect the library levy from City property owners. The County will then be responsible for setting and collecting the library levy for City property owners.

LIBRARY AGREEMENT

This Library Agreement (this "Agreement") is made and entered into this _____ day of _____, 2017 (the "Effective Date"), by and between the City of Lake Elmo, a Minnesota municipal corporation (the "City") and the County of Washington, a Minnesota political subdivision (the "County").

RECITALS

WHEREAS, on January 1, 2012, the Lake Elmo City Council established public library service for the City's residents, pursuant to Minnesota Statutes Section 134.07; and

WHEREAS, upon this establishment, the Library Board was appointed by the City Council which established the Lake Elmo Public Library; and

WHEREAS, the City levies an annual tax on its taxable property for public library service for the library fund that funds the Lake Elmo Public Library; and

WHEREAS, pursuant to Minnesota Statutes Section 134.07, it has been determined by the City that public library service in the City will be expanded if the Lake Elmo Public Library becomes a branch of the Washington County Library System; and

WHEREAS, the County's library system is a member of a "regional public library system" as defined by Minnesota Statutes Section 134.001, subdivision 4; and

WHEREAS, pursuant to Minnesota Statutes Section 134.20, subdivision 3, a city which is excluded from the county tax supporting the county's regional public library system under the provisions of Minnesota Statutes Section 134.20, subdivision 3, may, upon recommendation of its

library board and upon action by its city council, be included in the county tax and become an integral part of the county's regional public library system; and

WHEREAS, at its meeting on May 3, 2017, the City's Library Board made a recommendation that the City not tax for library services and allow the County to tax City residents for library services and for the City become an integral part of the County's library system; and

WHEREAS, at its meeting on _____, 2017, the City Council took such action whereby City residents would be subject to the County library tax and the City would rejoin the County's library system, provided that the City and the County enter into this Agreement regarding the City's library property and the library services that will be provided to the City by the County; and

NOW, THEREFORE, it is hereby agreed by and between the parties as follows:

Article 1 – Library Services

- A. Effective January 1, 2018, the City shall be included in the County tax and become an integral part of the County's library system.
- B. On January 1, 2018, the County will begin operation in the City with the Lake Elmo Public Library located at: 3537 Lake Elmo Avenue North, Suite 130, Lake Elmo reverting to a County branch library.
- C. The City agrees that it will not initiate or complete a withdrawal from the County library system prior to January 1, 2022.
- D. The County must ensure that its Lake Elmo library branch is open to the public a minimum of 40 hours per week for a four year period starting on January 1, 2018. The County agrees that there will be some weeknight and weekend hours during this time period. After the four year period has ended, the County may at its sole discretion, determine the hours of operation of this branch. Furthermore, if the hours at either the Wildwood or Oakdale County branch libraries are reduced by the County due to an economic downturn or loss of state aid during the four year period, the County may reduce the Lake Elmo library branch hours proportionally.
- E. The County shall install a self-check-out system in the Lake Elmo branch library.
- F. The County agrees that upon the City becoming part of the County's library system, the County will hire all current Lake Elmo Public Library staff. Once hired, the staff will become County employees and subject to the County's rules and regulations and collective bargaining agreement for County library employees.

- G. That the County will welcome volunteers in accordance with the Washington County Library Volunteer Handbook. The County agrees that it will involve the Lake Elmo Public Library volunteers by providing them with meaningful volunteer opportunities at the Lake Elmo library branch.
- H. The County agrees that the Lake Elmo Public Library will not be required to pay for County library cards effective July 1, 2017.
- I. The County will seek access to MELSA resources for Lake Elmo residents no later than August 1, 2017.

Article 2 – Library Funds

- A. Effective on January 1, 2018, the City will no longer levy for library services pursuant to Minnesota Statutes Section 134.07. City residents will instead be assessed the County library levy.
- B. During the period of January 1, 2018 to December 31, 2021, the City agrees that it shall not impose a library tax pursuant to Minnesota Statutes Section 134.07. The County may enforce this provision through injunctive relief.
- C. The City will convey \$100,000 of its library funds to the County on January 1, 2018. The County must use the funds conveyed by the City exclusively for the Lake Elmo branch library. Any City library funds in excess of \$100,000 will be retained by the City and used in accordance with Minnesota Statutes Section 134.20, subdivision 3, to increase or improve public library services within the City.

Article 3 – Library Building, Property, and Personal Property

- A. On January 1, 2018, the City shall convey in fee simple absolute by quit claim deed the property in which the Lake Elmo Public Library is located, known as 3537 Lake Elmo Avenue, Lake Elmo, Minnesota and the property in which the parking lot for the Lake Elmo Public Library is located to the County at no cost to the County by quit claim deed (the “Library Property”). The Library Property is legally described on the attached Exhibit A.
 - 1. The City’s conveyance shall include the library building and all fixtures and personal property that are located on the Library Property, including, but not limited to, furniture, books and other library materials.
 - 2. The County shall be responsible for the cost of any title searches or title insurance for the Library Property; the payment of the state deed tax and the cost of the recording fees for the quit claim deed and the recording of this

Agreement. The County shall be responsible for recording the quit claim deed and this Agreement.

3. The County agrees to accept the Library Property "AS IS." The conveyance of the Library Property is being made without representation of any warranties, express, or implied, either oral or written, made by the City or any official, employee, or agent of the City with respect to the physical condition of the Library Property, including, but not limited to, the existence or absence of petroleum, hazardous substances, pollutants or contaminants in, on, or under, or affecting the Library Property.
- B. The City hereby agrees to waive any building permit fees, plumbing and electrical inspection fees, and any other fees or charges normally imposed by the City with respect to any improvements made by the County to the Library Property throughout the term of this Agreement.
 - C. The City hereby agrees to pave the Library Property's parking lot at its cost, which will be completed no later than December 31, 2017. The City hereby agrees to provide at no cost to the County, snowplowing of the Library Property's parking lot during the term of this Agreement. The County will be responsible for any other maintenance required with respect to the Library Property, including, but not limited to, the building and the parking lot. The County shall allow the City to use the parking lot for public parking purposes during the term of this Agreement. The parties shall enter into a separate agreement regarding the City's snowplowing obligations and the City's use of the parking lot.
 - D. Throughout the term of this Agreement, the County shall allow the City to use the community room space in the library building on the Library Property for use by community groups free of charge so long as it does not interfere with the County's library programs and is consistent with the Washington County Library Board policies on use of meeting rooms. The County and the City shall enter into a separate agreement governing the City's use of the community room space.
 - E. The City agrees that it will consider the Library Property as part of its municipal facilities space needs study.

Article 4 – Termination of the Operation of the Public Library

- A. Throughout the term of this Agreement, the Library Property must be used by the County for the operation of a public library. "Operation of a public library" shall include the use of the Library Property by the County for County library administrative

offices, storage of County library supplies and vehicles, and any other use by the County that relates to the providing of library services to the public.

- B. In the event the County desires to use all or a portion of the Library Property for County governmental purposes other than operating a public library as described above, it is understood and agreed that the County shall be required to apply for and receive the express approval of the Lake Elmo City Council for such alternate proposed County governmental use. In the event the City Council refuses to grant approval to the County for the use of the Library Property for purposes other than operating a public library the County shall reconvey the Library Property including the library building, the parking lot, and all fixtures and personal property that are located on the Library Property, including, but not limited to, furniture, books and other library materials to the City.

Article 5 – City Withdrawal from County Library System

- A. In the event that the City determines that it wishes to withdraw from the County library system, the County agrees to reconvey the Library Property including the building and parking lot to the City by quit claim deed. The reconveyance shall not include fixtures and personal property that are located on the Library Property, including, but not limited to, furniture, books, and other library materials. In addition, if the withdrawal occurs prior to January 1, 2028, the City agrees to pay the County an amount equal to the capital improvements made by the County to the building on the Library Property from January 1, 2018 to the date of the reconveyance.

Article 6 – General Provisions

- A. This Agreement shall terminate upon the County's reconveyance of the Library Property to the City pursuant to either Article or Article 5 of this Agreement.
- B. The County shall not assign its rights under this Agreement without the written consent of the City.
- C. This Agreement constitutes the entire agreement between the City and the County and there are no other agreements, either oral or written, between the parties. No subsequent alteration, amendment, change, or addition to this Agreement shall be binding upon the City or the County unless reduced to writing and executed in the same form and manner in which this Agreement is executed.
- D. Data exchanged between the parties under this Agreement shall be administered in accordance with Minnesota Statutes Chapter 13 and all data on individuals shall be maintained in accordance with statutory guidelines.

- E. The provisions of this Agreement are expressly severable, and the unenforceability of any provision or provisions hereof shall not affect or impair the enforceability of any other provision or provisions.
- F. This Agreement shall be interpreted in accordance with the laws of the State of Minnesota.
- G. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.
- H. The covenants and agreements contained in this Agreement shall bind the parties' successors and assigns and shall run with the Library Property. This Agreement shall be recorded against the Library Property in the property records of Washington County.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on or as of the date first above written.

CITY OF LAKE ELMO

By: _____

Mike Pearson

Its: Mayor

By: _____

Julie Johnson

Its: City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017 by Mike Pearson and Julie Johnson, the Mayor and the City Clerk, respectively, of the City of Lake Elmo, a Minnesota municipal corporation, on behalf of the City.

Notary Public

By:

Its:

By:

Its:

This instrument was drafted by:
Kennedy & Graven, Chartered (SJS)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55402
(612) 337-9300

EXHIBIT A

Legal Description of the Library Property

Lots 10, 11, 12 and 13, Block 3, Cloverdale, according to the plat thereof, on file and of record in the office of the County Recorder, Washington County, Minnesota

AND

All that part of Lot 31 of County Auditor's Plat No. 8 on file and of record in the office of the County Recorder, Washington County, Minnesota.

- b. That effective January 1, 2018, the County will operate the City's library located at 3537 Lake Elmo Avenue North, Suite 130, Lake Elmo, Minnesota as a County branch library.
- c. That the Lake Elmo Public Library will be open to the public a minimum of 40 hours per week including some weeknight and weekend hours for a four year period starting on January 1, 2018. The City agrees that it will not initiate or complete a withdrawal from the County library system prior to January 1, 2021.
- d. If the hours at either the Wildwood or Oakdale branch library are reduced by the County due to an economic downturn or loss of state aid, the County may reduce the Lake Elmo branch library hours proportionally.
- e. That the County will install a self-check out system in the Lake Elmo Public Library.
- f. That the County will hire all current Lake Elmo Public Library staff.
- g. That the City will convey the property in which the Lake Elmo Public library is located and the property in which the parking lot for the Lake Elmo Public Library is located to the County at no cost along with all associated personal property. The library property must be used by the County for the operation of a public library. Lake Elmo City Council approval would be required for a change in the use of the property by the County. If the county closes the Lake Elmo branch library, the City will receive the land, building, and contents back by quitclaim deed.
- h. In the event the City withdraws from the County Library System, the County agrees to convey the building and property, which the parking lot for the library is located to the city at no cost by quitclaim deed. The conveyance will not include fixtures and personal property. In addition, if the withdrawal occurs prior to January 1, 2028, the city agrees to pay the county an amount equal to the capital improvements made by the county to the building from January 1, 2018 to the date of conveyance. Capital improvements funded from the funds conveyed in m. below will not be reimbursed by the City.
- i. That the County will allow the City to use the community room space in the Lake Elmo Public Library building for use by community groups free of charge so long as it does not interfere with the County's library programs and is consistent with the Washington County Library Board policies on use of meeting rooms.
- j. That the County will welcome volunteers in accordance with the Washington County Library Volunteer Handbook. Volunteers will be given meaningful volunteer involvement in the Lake Elmo branch library

- k. That County library staff will engage with the Friends of Lake Elmo Library by periodically attending their meetings and coordinating on activities where appropriate.
- l. The City will pay for the paving of the parking lot. The parking lot must remain a public parking area to be used by the community. The City will be responsible for snow plowing the parking lot. All other maintenance obligations with respect to the parking lot and library property will be the responsibility of the County.
- m. That the City will convey \$100,000 of its library funds to the County on January 1, 2018. The County must use the funds conveyed by the City exclusively for the Lake Elmo Public Library. Any City library funds in excess of \$100,000 will be retained by the City and used in accordance with Minnesota Statutes Section 134.20, subdivision 3 to increase or improve public library services within the City.
- n. That the Lake Elmo Library will no longer have to pay for Washington County library cards effective July 1, 2017.
- o. That the County will seek access to MELSA resources for Lake Elmo residents by August 1, 2017.
- p. That the City will consider library space as part of its municipal facilities space needs study.

Passed and duly adopted this _____ day of _____, 2017, by the Library Board of the City of Lake Elmo, Minnesota.

Chair

ATTEST:

Secretary

**CITY OF LAKE ELMO
WASHINGTON COUNTY
MINNESOTA**

RESOLUTION NO. 2017- 049

*A RESOLUTION DISCONTINUING LIBRARY SERVICES
IN THE CITY OF LAKE ELMO*

WHEREAS, on January 1, 2012, the Lake Elmo City Council (the “City Council”) established public library service for the City’s residents, pursuant to Minnesota Statutes Section 134.07; and

WHEREAS, the City of Lake Elmo (the “City”) is a statutory city; and

WHEREAS, Minnesota Statutes Section 134.07 provides that in any statutory city, the governing body may levy an annual tax on all taxable property in the City for public library service; and

WHEREAS, the City currently levies an annual tax on its taxable property for public library service for the library fund that funds the Lake Elmo Public Library; and

WHEREAS, pursuant to Minnesota Statutes Section 412.221, a statutory city council is authorized to provide for the general welfare of the public and has the power to provide for the government and good order of the city; and

WHEREAS, the City Council has determined that it is no longer in the best interest of the public for the City to provide public library services to the City’s residents because Washington County can better provide these services to the public; and

WHEREAS, the City Council has the authority to discontinue public library services; and

WHEREAS, the City Council also has the authority under Minnesota Statutes Section 134.07 to determine whether to levy an annual tax to fund library services in the City; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Lake Elmo as follows:

1. Effective, _____, public library services in the City of Lake Elmo are hereby discontinued and the City shall cease providing those services on that date.
2. The City Council will no longer levy an annual tax on all taxable property in the City for public library services.
3. The City Administrator is hereby authorized to take any measures as are necessary to effectuate the discontinuance of library services in the City of Lake Elmo.

Passed and duly adopted this _____ day of _____, 2017, by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk