

TO: MAYOR ALAN BURCHILL AND THE HUDSON COMMON COUNCIL
FROM: ROY A. SJOBERG, COUNTY SUPERVISOR, DISTRICT 5
DATE: SEPTEMBER 18, 2015
RE: LIBRARY SERVICES IN ST. CROIX COUNTY, (the "County")

INTRODUCTION

In the fall of 2013, the Mayor of the City of Hudson (the "Mayor") proposed to the leaders of the 3 other municipalities who make up the Hudson Area Joint Library (the "HAJL") that the HAJL should terminate its payments to its neighboring libraries. This Letter exposes the harm in that action and it identifies and responds to some of the misstatements of law and fact that have been made by the Mayor, the City Attorney, and the current President of the HAJL in the course of recent Common Council meetings. This Letter concludes with a solution that would be beneficial to all concerned.

POINT #1. Contrary to statements made by the City Attorney during the August 17, 2015 Common Council meeting, ***St. Croix County's approval of the formation of the HAJL was conditioned upon the promise to reimburse its neighboring libraries made by the Hudson Library (by its then President, James O'Conner) and by the three municipalities involved back in 2002, including the City of Hudson, the Village of North Hudson, and the Town of Hudson.***

The promise to reimburse was critically important because once the formation of the HAJL was approved, the County would cease levying a library tax on the residents who reside in the Town of Hudson and the Village of North Hudson. Only the municipalities of the HAJL would thereafter be levying a library tax on their residents. Thus, only the HAJL would have the revenue source to reimburse the neighboring libraries for circulation (books) borrowed from the neighboring libraries by residents of the Town of Hudson and the Village of North Hudson. Up until the formation of the HAJL, the County levied the library tax upon the residents of the Town of Hudson and the Village of North Hudson and the County dutifully distributed the library tax revenue in direct proportion to the amount of books borrowed by the residents of those two municipalities from each of the libraries in the County. Back in 2002, the neighboring libraries were rightfully concerned that unless the HAJL continued to do what the County had been doing, there would be no entity paying them for all the books borrowed from their libraries by residents of the Town of Hudson and the Village of North Hudson. Concern was so strong over this issue that it took the HAJL another 2 years of promising and pleading before the Town of St. Joseph felt the promise to reimburse was secure enough for that municipality to join the HAJL.

Clear and convincing evidence of the promise to reimburse is found in the Minutes of the County Library Finance Committee's meeting Minutes of August 9, 2002 and of September 10, 2002. In addition, the promise was memorialized in a written statement prepared by the then President of the Hudson Library, James O'Connor, dated September 6, 2002. The promise was once again affirmed in statements made

by James O'Connor before the County Library Finance Committee as recorded in the Minutes of its meeting held on July 10, 2003. [Excerpts of each of these records are included in the attachments to this Letter.]

That the condition for approval was known and understood by the municipalities of the HAJL and by the Board of Trustees of the HAJL is without question. Clear and convincing evidence is found in the Minutes of the meeting of the County Finance Committee meeting of September 10, 2002, in the Minutes of the County Board meeting of October 29, 2002 and in the Resolution granting the County's approval adopted on October 29, 2002.

In addition, the HAJL honored this promise and made the appropriate payments to its neighboring libraries in 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013. By an admission made during a Common Council meeting on August 17, 2015, the Mayor of the City of Hudson, acknowledged that it was his idea to stop paying the neighbors so that the HAJL could retain those funds and convert them to its own use. [The Mayor could have championed an effort to increase financial support for the HAJL by prioritizing an increase in the funding to the HAJL, but that was not the path taken. Instead, the Mayor chose the path of breaking the vital promise that the HAJL and the four municipalities had made to the neighboring libraries, to the municipalities of those neighboring libraries, and to the Board of Supervisors of St. Croix County].

This vital promise, which the Mayor was encouraging HAJL to break, was the very promise that was the key condition to the granting of the County's approval of the formation of the HAJL itself. In other words, ***BUT FOR THAT PROMISE, THE HAJL WOULD NOT EXIST.***

POINT #2. Contrary to a statement made by Rich O'Connor, (the current President of the HAJL) at the August 17, 2015 Common Council meeting, ***it is not a breach of any fiduciary duty for the Board of Trustees of the HAJL to honor the vital promise and commitment that the HAJL made to reimburse its neighboring libraries; especially when, but for that promise, there would be no Board of Trustees because the HAJL would not exist.***

Perhaps some confusion came into this fiduciary duty issue when the City Attorney stated to the Common Council that she believed the payments were "unauthorized" or "not appropriate." This is a serious misstatement of the law for 2 reasons.

First, the City Attorney fails to mention that the Hudson Library itself, by words and actions taken by President James O'Connor, made direct promises that it would hold the neighboring libraries harmless and that the HAJL, once formed, would continue to reimburse those neighboring libraries. Since the President of the Hudson Library was also making the promise directly, the reimbursement payments can hardly be referred to as "unauthorized" or "not appropriate."

Second, when the City Attorney heard the Mayor referring to the HAJL's reimbursement payments as "illegal," she took no action to correct that serious misunderstanding of the law. Even if we assume for a moment that the four municipalities did not have *the legal right to direct* the HAJL to make the reimbursement payments, those payments when made were still perfectly permissible to be made by the HAJL because the Board of Trustee was still free to make whatever expenditures it decided were needed or required.

POINT #3. Contrary to the statement made by the City Attorney during the Common Council meeting on August 17, 2015, ***any municipal library may pay any other municipal library for library services given by the latter to the former.*** The City Attorney unfortunately emphasized her erroneous understanding by stating that she knows of no municipality [in Wisconsin] that makes payments to its neighboring libraries. When IFLS Director, John Thompson, heard about that statement, he responded by immediately offering that the municipal library of Eau Claire and the municipal library of Altoona [not very far away from Hudson] do exactly that; they reimburse each other depending on library services rendered to the residents of each other's municipality.

Furthermore, Wis. Stat. 43.11(e) expressly authorizes and in fact empowers each county within the county's Plan for Library Service *to require* that municipalities reimburse each other based upon usage. [A copy of this statute section is found in the attachments to this Letter].

POINT #4. ***There are limits on the autonomy that a library board of trustees has to determine its expenditures.*** [Refer again to Wis. Stat. 43.11(e).]

It is quite curious that the Mayor is proclaiming that it is somehow "illegal" for the 4 municipalities to require in the Joint Library Agreement that the HAJL reimburse its neighboring libraries, but he has nothing to say about the obligation in the same Joint Library Agreement that requires the HAJL to pay the City of Hudson a certain stipulated percentage for fiscal services.

POINT #5. ***It is entirely reasonable and appropriate that when the County learned of this serious breach of trust and commitment on the part of the HAJL and the 4 municipalities, that the County would take appropriate steps to mitigate the harm caused by that breach of trust and commitment.*** When the current President of the HAJL decried that the County's proposed action to mitigate the damage was "punitive," what did he and the HAJL Board expect? No reaction? Hardly. While the HAJL and the Mayor may find it relatively easy to bully their will upon the librarians of several of our neighboring libraries, it is the responsibility and fiduciary duty of the Administration Committee of the County to stand up to such adverse conduct and take steps to reduce the damage done to the innocent neighboring libraries located in the County.

Under the terms of the current recommended budget change for 2016 made by the Administration Committee, in response to the HAJL withholding and using for itself over \$53,000 of library tax revenue that should have gone to the neighboring libraries, the County would withhold about \$26,000 from the \$80,000 payment that the County otherwise would be paying to the HAJL next March. It is easy to see, that even with this action, the County only lessens the damage done by 50%.

POINT #6. *Many residents living within the 4 municipalities agree that the HAJL's breaking of its promise to reimburse its neighboring libraries is improper, short of integrity, and dishonorable.* The current HAJL President overplayed his hand when he stated that 100% of my constituents would disagree with my effort to have the HAJL reconsider its action and honorably reinstate its promised reimbursement payments to its neighboring libraries. Many would also agree that it is profoundly self-righteous for the HAJL to renege on this promise made to the County and then turn around and attempt to label the County as the bad guy.

Anyone who has lived in the Hudson area for a while knows that there are a number of bullies who from time to time levy personal attacks on members of the school board, the superintendent, the high school principal, as well as others in public office who express views that are not in lockstep with their own views. The way to stop bullies is to stand up to them. That is what I am doing now. Listen to the words spoken by the current HAJL President at the Common Council meeting on August 17, 2015. After asserting as strongly as he could that 100% of my constituents in County Supervisory District 5 would not be supportive of the County's proposed action to address the HAJL's breach of its promise, he threatened me with the following, and I quote, "Friends come and go, but your enemies accumulate." Really?

POINT #7. Contrary to the statements made by the Mayor during the August 17, 2015 Common Council meeting, ***when the County finally increased the rural circulation reimbursement rate from 70% to 85% for 2010 and then to 100% of actual cost for library services for 2011, it did not cause a net increase in costs to the HAJL.*** While it is true that the payments required to be made pursuant to the HAJL's promise to its neighboring libraries increased from \$28,092 in 2010, to \$33,050 in 2011 and then to \$52,121 in 2012, so did the payments made by the County to the HAJL during each of those years. [That fact was omitted by the Mayor]. Also, the payment required to its neighboring libraries for 2013 reduced to \$36,000.

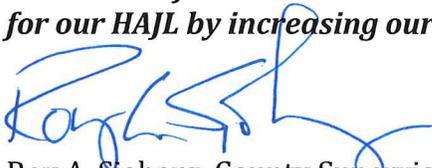
The County's payment to the HAJL was \$55,328 in 2010, increasing to \$65,763 in 2011, and increasing again to \$75,952 in 2012. The County's payment to the HAJL was therefore always more than enough to provide the funds necessary for HAJL to reimburse its neighboring libraries. Then in the following year of 2013 the County's payment to the HAJL increased again to \$82,966 while the amount that the HAJL was to pay to its neighboring libraries reduced to \$36,000. So from year 2010 to 2013, the County's payment to the HAJL increased from \$55,328 to \$82,966, (an

increase of \$27,638) while the amount that HAJL was to pay to its neighboring libraries increased from \$28,092 to \$36,000, (in increase of \$7,908). I was on the HAJL's Board of Trustees during those years and it was actually a ***net benefit*** to the HAJL that the reimbursement rate was going from the partial funding rate of 70% to the full funding rate of 100%. [See the attachments for HAJL's 2012 and 2013 Budgets.]

POINT #8. The root of the financial problems at the HAJL is that the 4 municipalities' have provided virtually no funding increase to the HAJL since it moved into the new facility on First Street. Compare the current level of funding provided to the HAJL by the City of Hudson with that provided by the City of River Falls to the River Falls Public Library. Both libraries serve about the same population. River Falls Public Library would likely be required to close its doors on Mondays and lay off half of its staff (just like the HAJL) in order to operate on the same budget that the 4 municipalities are requiring the HAJL to live under.

During the years that I served as the President of the HAJL and on the Board of Trustees, I spent 1,000+ hours trying to find a way to convince the 4 municipalities to increase the HAJL's funding from starvation to at least the lowest basic level for libraries of our size. We conducted a visioning session, started an annual campaign, hired a consultant, had a steering committee recommend solutions, but all to no avail. The then Common Council said that despite the move into the new facility, no increase in financial support was in order. Then when I discovered that the level of funding for the HAJL was lower than the state-required level to remain exempt from the County library tax, instead of facing up to this reality and making the required increase, a call was made to Representative Dean Knudson. And sure enough, he proceeded to author a Bill in the Wisconsin legislature (that became law) that would excuse any joint library from having to live up to the state standards required of all other municipalities with municipal libraries in the state. In other words, but for the tax loophole authored by Rep. Knudson, the level of funding for our HAJL would officially be below the lowest level permitted by law.

In conclusion, the correct thing to do here is to raise the level of funding for the HAJL so that the HAJL can once again open its doors on Mondays and reinstate its reimbursement payments to its neighboring libraries. That action should be taken even if the 3 other municipalities refuse to join us. Let's show our support for our HAJL by increasing our library funding. Let's do the right thing Hudson.



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