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MEMORANDUM

TO: Roy Sjoberg, County Board Supervisor, District #5
FROM: Scott L. Cox, Corporation Counsel *SLC*
DATE: October 20, 2015
RE: Reimbursement Promise

You have requested my opinion as to what was the importance of the promise made by the forming members of the Hudson Area Joint Library to reimburse any public library in the County for any negative financial impacts for loss of "rural circulation" that would result from the formation of the Joint Library. It is my opinion that there is substantial evidence that the St. Croix County Board of Supervisors relied upon the promise, and but for the promise, the County Board's approval of the Town of Hudson and Town of St. Joseph participation in the Hudson Area Joint Library was unlikely.

BACKGROUND

Within St. Croix County, there are nine libraries and one joint library. The libraries are located in the following municipalities: Baldwin, Deer Park, Hammond, River Falls, Roberts, Somerset, Woodville, Glenwood City, and New Richmond. The one joint library is the Hudson Area Joint Library, which members include the City of Hudson, Town of Hudson, Town of St. Joseph, and the Village of North Hudson. Joint libraries may be created by any two or more municipalities pursuant to Wis. Stat. § 43.53. Any town that desires to participate in a joint library needs the approval from the County Board of Supervisors pursuant to Wis. Stat. § 43.52(1m). The Board of Supervisors approved the participation of the Town of Hudson in the Hudson Joint Library in 2002. The Hudson Joint Library officially formed in 2003. In 2004 the Board of Supervisors approved the participation of the Town of St. Joseph in the Joint Library.

Wis. Stat. § 43.12(1) and (2) requires that by March 1 of each year, the County pay to each public library in the county and to each public library in an adjacent county an amount that is equal to at least 70% of the amount computed by multiplying the number of loans of material made by that library during the calendar year to the residents of the county, or adjacent county, who are not residents of a municipality with a public library, by the following:

...the total operational expenditures of the library during the calendar year for which the number of loans of material are reported, not including capital expenditures or expenditures from federal funds, divided by the total number of loans of material made by the public library during the calendar year for which the loans are reported.

It is critical to understand that the number of loans of material made by a particular library to residents of a municipality with a public library are not counted in the rural circulation formula and that as a result an increase in municipalities with libraries will negatively impact the existing libraries' receipt of rural circulation funds.

When the Town of Hudson requested approval from the St. Croix County Board to join the proposed Hudson Joint Library, with the City of Hudson and Village of North Hudson, there was substantial concern that several of the municipalities with existing libraries would lose rural circulation revenue as a result of the Village of North Hudson and Town of Hudson participating in the Joint Library. In a letter dated August 5, 2002, such concern was raised by the River Falls Public Library. It is documented in the August 9, 2002 and September 10, 2002 meetings of St. Croix County's Finance Committee that the Hudson Area Joint Library, according to President Jim O'Connor, would reimburse other libraries in St. Croix County for any shortfall in funding resulting from the formation of the Joint Area Library. At its September 10, 2002 meeting, the St. Croix County Finance Committee authorized the forwarding of a resolution to the County Board granting the request of the Town of Hudson to join the Hudson Joint Library contingent upon contractual language included regarding paying loss of rural circulation, with the contract supplemented by resolutions of other towns included in the Joint Library System.

When the County Board approved the Town of Hudson's participation in the Joint Library in 2002, the Board noted as follows in a whereas clause of the resolution:

WHEREAS, pursuant to discussions with the Finance Committee, the Mayor of Hudson, President of North Hudson and Chairman of the Town of Hudson have all acknowledged that the joint library board intends to reimburse any public library in the County for any negative financial impacts for loss of collections for "rural circulation" that would have been received had the joint library board members remained subject to the County library tax levy; and...

The promise to hold the other libraries harmless was memorialized in an agreement between the City of Hudson, Village of North Hudson and Town of Hudson in February of 2003 in the Joint Library Agreement executed by the parties. Specifically paragraph 7 of that agreement provides as follows:

Reimbursement to other libraries - The Joint Library will reimburse other libraries in the St. Croix County for any shortfall between what they receive for library services from St. Croix County and the rural circulation funding they would have received if no towns participated in the Hudson Area Joint Library. Payments will be made annually upon application by each library and will continue as long as the State of Wisconsin mandates reimbursement for rural circulation from the Joint Library agreement.

The promise and reliance on that promise was once again affirmed in statements made by James O'Connor before the County Finance Committee on July 10, 2013, as well as County Board members Buck Malick, Daryl Standafer and Esther Wentz. Wentz specifically stated that one of the reasons the resolution authorizing the Town of Hudson joining the Joint Library was approved was the hold harmless promise made by the Joint Library members.

Therefore, when the Finance Committee considered on October 28, 2004 the application of the Town of St. Joseph to join the Hudson Area Joint Library, it did so with the full knowledge of the promise made by the participants of the Joint Library. Likewise, the County Board, knowing of the promise and that the hold harmless agreement was in place, approved the Town of St. Joseph joining the Hudson Area Joint Library unanimously.

SUMMARY

In my opinion there is substantial evidence that the St. Croix County Board of Supervisors relied upon the promise made by Jim O'Connor and the members of the Joint Area Library to reimburse other libraries for loss in rural circulation revenue in approving the Town of Hudson's and St. Joseph's participation in the joint area library. Their approval was substantially based upon the promise made by the participants of the Joint Area Library, and but for that promise, the County Board's approval was unlikely.