

Library Commission Handbook

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BY-LAWS
OF THE
BOULDER PUBLIC LIBRARY COMMISSION

Article I

General Provisions

Section 1. The name of this commission shall be the Boulder Public Library Commission.

Section 2. The principal office of the said Library Commission shall be located at the Main Branch of the Boulder, Colorado, Public Library.

Section 3. The said Library Commission shall have such powers, duties and responsibilities as are now set forth in the Charter (Article IX, sections 132-136) and Ordinances of the City of Boulder, Colorado, or as may be hereafter provided by an amendment to said Charter.

Article II

Membership

Section 1. The membership of the said Library Commission shall be as is now provided in the Charter of the City of Boulder, Colorado, or as may be hereafter provided by amendment to said Charter. At the present time, said Charter provides that the Library Commission will be composed of five electors, appointed by the Council, not all of one sex, well known for their ability, probity, public spirit, and particular fitness to serve on such Commission.

Section 2. The terms of the members of said Library Commission, removal of members from the said Commission and the filling of vacancies on said Commission shall be as is now provided by the Charter of the City of Boulder, Colorado, or as may be hereafter provided by amendments to said Charter. The Charter of said city presently provides for a term of five years for each member of the Commission, one new member being appointed by the Council in March of each year. The Charter also presently provides that the City council shall have the power to remove any commissioner for non-attendance to duties or for cause, and that vacancies shall be filled by the Council.

Article III

Meetings

Section 1. The said Library Commission shall hold regular monthly meetings at such times and places as may be agreed upon by the Commission.

Section 2. Special meetings may be called at any time at the request of at least three members of the Commission. Written notice stating the time and place of any special meeting and the purpose for which called, unless said notice is waived, shall be given to each member of the Commission at least two days in advance of such meeting and no business other than that stated in said notice shall be transacted at the special meeting.

Section 3. Each year at its April meeting the Commission shall elect officers and shall make such other organizational arrangements as may be required for the year.

Article IV

Officers

Section 1. The Library Commission shall elect a chair, a vice-chair and a secretary. There may also be co-chairs instead of a chair and vice-chair.

Section 2. The chair of the Library Commission shall preside at the meetings of the Commission and shall sign, execute, acknowledge and deliver for the Commission all contracts and writings of any kind required or authorized to be signed or delivered by the Commission. The signature of the chair shall be attested by the secretary.

Section 3. The secretary (or staff designee) shall record the proceedings of each meeting and present the same for approval at the next meeting of the Commission. There shall be kept a permanent file of the minutes of said meetings and of all reports made to the City Council.

Article V

Committees

Section 1. The chair shall have the right to appoint special committees. Said committees shall be advisory to the Commission and shall not have the authority to act for and on behalf of the Commission.

Article VI

Quorum

Three members constitute a quorum and the affirmative votes of at least three members shall be necessary to authorize any action by the Commission.

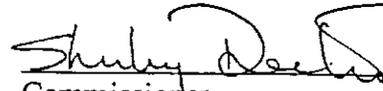
Article VII

Amendments

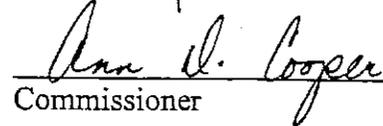
These *By-Laws* may be amended at any regular or special meeting of the Library Commission, provided that notice of the proposed amendment has been given to the members of the Commission at the regular meeting preceding the time at which action is taken thereon or providing that said notice of the proposed amendment has been mailed to the members of the

Commission at least two weeks prior to the meeting at which action is to be taken upon said amendments.

The above and foregoing *By-Laws* for the Boulder Public Library Commission were read and unanimously adopted by the said Library Commission at its meeting of February 3, 1999.



Commissioner



Commissioner



Commissioner



Commissioner



Commissioner

Commission Meeting Schedule

Feb. 2013- Jan. 2014
Library Commission Meeting Schedule

Meetings are held on the first Wednesday of the month (except July is the second Weds.) and start at 6:00 p.m.

Date	Location
February 6	Carnegie Branch Library
March 6	Main Library, North Meeting Room
April 3	Main Library, North Meeting Room
May 1	Reynolds Branch Library
June 5	Main Library, North Meeting Room
July 10	Main Library, North Meeting Room
August 7	Main Library, North Meeting Room
September 4	Main Library, North Meeting Room
October 2	Main Library, North Meeting Room
November 6	Main Library, North Meeting Room
December 4	Main Library, North Meeting Room
January 8	Meadows Branch Library

List of past Library Commissioners

1906-2013

First Commission

Miss Mary Rippon

Mrs. Fred White

Mrs. Adriana Hungerford

Mrs. W.H. Allison

Mrs. H.B. Rosenkrans

Mr. James Cowie

Mrs. Harry M. Pollard

Mrs. C. Henry Smith

Mr. Dan McAllister

Elizabeth L. Olsen

Mary K. Gamble

Mrs. Paul Friggens

Mr. H. B. Millard

Vina Knowles

Mr. Henry W. Callahan

Mrs. J. A. Davis

Elbert Greeman

Mr. Gilbert Callahan

Mr. J. F. Willard

Mrs. R. E. Arnett

Mrs. S. C. Barrett

Mrs. H. O. Dodge

Mrs. C. Henry Smith

Miss Maude McKenzie

Mrs. D. R. Jenkins

Mrs. E. W. Brett

Mrs. Martha Nafe

Mrs. Robert Sterling

Mrs. Gregory W. Cohn

Mr. Maxwell Burger

Mr. W. C. Duvall

Mrs. John D. Gillaspie

Mrs. E. H. Ellis

Ruben L. Olson

Mr. Audley McLure

Mr. Alfred E. Whitaker

Mr. George Clark

Rudolph Johnson

(1951)1956 Eugene H. Wilson 1960

(1954)1957 Mrs. Clyde Reedy 1961

(1956)1958 Eugene Gullette 1962
1959 Mr. Stanley Hendrickson 1963
(1956)1960 Mrs. James Yeager 1964
1961 Eugene Wilson 1961; (January) 1962 Ralph Underwager
(August) 1962; 1962 Paul Friggens 1965
1962 Mrs. F. K. Bangs 1966
1963 Carl Ubbelohde 1965; 1965 Dolores Kiser 1967
1964 James Buchanan 1968
1965 F. E. Luethi (March) 1966; 1966 Mrs. Thomas Bilhorn 1969
1966 Paul Friggens 1968; 1968 Eldred Wolzien 1970
1967 Lawrence Coolidge 1971
1968 Dolores Kiser 1972
1969 Alex H. Warner 1973
1970 Janet Roberts (October) 1971; 1972 Lawrence C. Brown 1974
1971 Eldred Wolzien 1975
1972 Bryan Morgan 1976
1973 Joanne Arnold (May) 1976; (June) 1976 Harriet Crowe 1977
1974 Doris Hass 1978
1975 Dennis DuBe (July) 1978; (Sept.) 1978 Alice McDonald 1979 1976 Kenneth
Charlton 1980
1977 Michael Rayback 1981
1978 Harriet Crowe 1982
1979 Diane Ball 1983
1980 Alice McDonald 1984
1981 Bob Greenlee (July) 1983; (Aug.) 1983 Ridi Van Zandt 1985
1982 J. K. Emery 1986
1983 Hardy Long Frank 1987
1984 Abraham Flexer 1988
1985 Francis Shoemaker 1989
1986 Janis Van Zante 1990
1987 Joseph Geiger (May) 1988; (June) 1988 Duane Deyoe 1991
1988 Allen Sparkman 1992
1989 Jane Butcher 1993
1990 Charles Nilon (June) 1991; (July) 1991 Michael Schonbrun December 1992; 1993
Ann Cooper 1994
1991 Linda Damon 1995
1992 Arthur Bronstein 1996
1993 Neal McBurnett (June) 1995; (August) 1995 Alex Goulder 1997
1994 Jeff Skala 1999
1995 Ann Cooper 2000

1996 Mariagnes Medrud 2001
1997 Shirley Deeter 2002
1998 Alex Goulder 2003
2000 Linda Loewenstein 2003
1999 Bruce Staff 2004
2001 Ann Aber 2006
2002 Lydia Tate 2007
2003 Catherine Sparkman 2005
2003 Stephen Topping 2010
2004 Steve Clason 2009
2005 Michael Keenan 2008
2006 Nadia Haddad 2011
2007 Sam Fuqua 2012
2008 Annette Mitchell 2013
2009 James Zigarelli 2010
2010 Anne Sawyer 2015
2010 Celeste Landry 2014
2011 Donna O'Brien 2016
2012 Dan King 2017
2013 Anna Lull 2018

Most Recent Library Commission Priorities Memo for City Council

TO: Boulder City Council and Jane Brautigam, City Manager

FROM: Boulder Public Library Commission

DATE: December 20, 2012

SUBJECT: Library Commission priorities that inform 2013 Council Work Plan

1. What are your top priorities within the framework of the council work plan?

The renovation of the Main Library is a top priority of the Library Commission. Voter approval of the Capital Improvement Bond Initiative (ballot item 2A in 2011) has enabled the Boulder Public Library to move forward with this project. Total project funding of \$3,166,000 includes \$2,450,000 in bond funding and \$716,000 from the Facility Renovation and Replacement fund. This project supports the current City Council goals (and work plan) involving Climate Action Plan and the Civic Area.

This renovation project will support the Climate Action Plan by reducing greenhouse gas emissions and maximizing energy efficiency by addressing general facility deficiencies related to lighting and electrical systems, repairing the leaking clerestory glazing system, and ensuring that design elements are compatible with future heating, ventilating, and air conditioning (HVAC) improvements.

The guiding principles for the Civic Area project, approved by the City Council on November 1, 2012, indicate that as the “Civic Heart” of Boulder, the Civic Area will represent the cultural richness and diversity of our community, be a model of design excellence reflecting forward thinking, and be designed to be welcoming, accessible, comfortable, clean and safe. The BPL, being a cornerstone for this area, is included in the planning opportunities. Current renovation plans for the 1992 and 1974 wings of the Main Library (areas included are the children’s and teen areas along with a café) and future opportunities for renovating the 1961 (north) wing align with these guiding principles. Furthermore, the current library renovation project will identify opportunities and recommendations for incorporating public art which will be funded from a source separate from the renovation budget.

2. What would you like to see done that would advance the council goals?

The Library Commission would like to see the city expand day services to homeless people in accordance with its Addressing Homelessness goal. In particular, sufficient day services for the homeless population including those who have drug and alcohol dependencies and/or mental health issues could relieve pressure from the library and its environs, allowing more focus on library mission-critical services.

3. How can your commission help reach council goals?

In 2013 the Library Commission will:

- A) Work with Studiotrope Design Collective, the public, and library staff to achieve the best possible library renovation for Boulder,
- B) Be involved, along with other boards and commissions, in the Civic Area project, and,
- C) Consider council goals as Library Staff and Commission begin the process of updating the Library Master Plan.

4. Are there any other items the council should address in the coming year?

- A) Gun Laws – The Library Commission strongly supports future legislation that would allow Colorado cities to prohibit guns in public libraries consistent with the prohibition allowed for K-12 schools.
- B) Library Service in North Boulder – With the goal of having library services in North Boulder, an active neighborhood group is working toward a possible storefront library. They have already funded three “Little Libraries” (<http://noboardistrict.org/NoBo-Little-Libraries>). A new storefront library would serve several affordable housing sites, thereby supporting the city’s Affordable Housing goal as well as the Climate Action Plan by reducing vehicle miles traveled. Commission would like City Council’s support as we work with this group to explore opportunities for library services in North Boulder.
- C) Research a Library District as a Mechanism to Stabilize Funding – In conjunction with a Master Plan update, the Library Commission has commenced with a long-range planning effort involving an evaluation of program priorities. This effort includes an evaluation of expenditures, revenues, and performance measures as well as options to stabilize funding. This leads to the consideration of alternative funding and governance options including, but not limited to, the creation of a library district. Commission requests City Council’s support and feedback as we research and pursue this goal.
- D) Virtual Library Branch – The modern, technological world demands a library which embraces the best technology possible and supports patrons in their use of and education about technology, particularly for information services. The Library Commission requests the support of City Council as we work with library staff to define and evolve the library’s website into a Virtual Branch Library.

Sincerely,

Annette Mitchell

Chair, Boulder Public Library Commission

2012 Guidelines for Meeting Action Summary and Minutes

Some Guidelines for Minutes (DRAFT)

- Avoid writing a transcript of the discussions, but do include a summary of all topics and any relevant main points or new information.
- Information that is not presented in the commission meeting should not be included in the Minutes.
- Include any questions and summarize all discussions that contribute to the Primary Discussion topic so that the overall scope and concerns are represented; tangential topics need not be included unless they became their own primary discussion point. This should also apply to other topics that take significant meeting time (approx. 10 minutes or more).
- From “Guiding Principles for Interaction Among Council, Boards, Commission and City Staff” #6 – “When members of a Board or Commission disagree about a given issue or policy, Council expects to be apprised of the disagreements and of the reasoning underlying the various points of view.” This should also apply to any differences of opinion between Staff and Commissioners.
- Try to use phrases/wording from meeting when possible; but still summarize.
- Consider who “we” refers to. These are commission minutes so “we” should refer to Commission, although more explicit identifiers, where possible, are preferred.
- Avoid any implied opinion; for example, using the verb “claims” when reporting what someone said implies doubt in the speaker’s statement.
- Avoid using titles every time a person’s name is mentioned. The last name is sufficient, saves time when reading and may make for more friendly minutes.
- Avoid interjecting updates to the minutes; use the Director/Commission Memos to do this. One exception is if the information provided during the meeting was incorrect, but important moving forward; include date corrected to Staff/Commission if included.
- Try to be concise where additional phrasing doesn't add discussion detail.

revised 5/21/12

Overview of Library Operations

Administration

Administration is comprised of the office of the director, general administrative functions such as project/contract management and long-range planning, budget and accounts payable, public information, volunteer services, facilities maintenance, and administrative support for the Library Commission.

Access Services

In addition to oversight of the Meadows and Reynolds branch libraries, the Access Services Division includes materials circulation services, maintenance of patron accounts, the homebound delivery program, administration of the holds and Prospector system, shelving, and maintenance of the automated materials handling system.

Arts and Culture

The Arts & Culture Division includes administration and oversight of the Film Program, Concert Series, Lectures, Canyon Gallery Exhibits, Dance Bridge and Arts Resource, community art grants, support for the Dairy Center for the Arts and The Boulder Museum of Contemporary Art, and administrative support for the Arts Commission.

eServices

eServices is comprised of administration and maintenance of library specific IT systems and equipment, including the integrated library system, computer reservation and print release system, computer technology support, the digital branch library, and the integrated library system.

Public Services

Public Services includes basic library services such as reference, reader's advisory, youth services, acquisition of library materials and electronic resources like e-books and informational databases.

In addition, Public Services includes access to the Carnegie Library for Local History collection, programming and events for the library system, adult and family literacy services, multi-cultural outreach, focused programming and outreach for youth.

CITY OF BOULDER, COLORADO

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Facsimile (303) 441-3859



MEMORANDUM

TO: Liz Abbott, Library & Arts Director

FROM: Jerry P. Gordon, Acting City Attorney *JPG*
Sandra Llanes, Assistant City Attorney *SL*

SUBJECT: Use and Management of the Library Fund
City Attorney File – LI AD 265

DATE: December 17, 2007

This memo sets forth answers and suggestions in response to your questions related to the use and management of library funds.

The sources used in this legal analysis include prior city attorney memos from 1960, 1976 and 1982 on the same subject, as well as the City of Boulder Charter and Boulder Revised Code. For your convenience, copies of the prior city attorney memos are included with this memo as attachments.

Questions and short answers

1. Should monies received from contracts with regional libraries reside with the Library Fund? **Yes.**
2. Is it consistent with the City Charter for annual appropriations related to the Library Fund to be made by City Council? **Yes.**
3. Is it consistent with the City Charter for gifts to the library to be kept in an account separate from the Library Fund account? **Yes.**
4. If a balance remains at the end of the year, do monies provided from the General Fund to the library remain in the control of the Library Commission? **Yes.**

Re: Use and Management of the Library Fund

Discussion:

1. *Monies received from contracts with regional libraries should reside with the Library Fund.*

Article IX, § 135 of the Boulder Charter provides that

All revenue from [the library property tax], together with all other moneys collected by the librarian or that may be derived by gift, devise, bequest, or otherwise, for library purposes, shall be paid into the city treasury and be designated as the "Library Fund . . .".

This language is broad and clear. It means that money collected or derived by the librarian for library purposes becomes part of the Library Fund.

2. *It is consistent with City Charter for annual appropriations related to the Library Fund to be authorized by City Council.*

Charter Section 135 explains how appropriations for the library are to be made. It starts with the following language:

The City Council shall make an annual appropriation, which shall amount to **not less than** the return of one-third of a mill tax levied upon each dollar of assessed valuation of all taxable property in the City of Boulder. All revenue from such tax, together with all other moneys collected by the librarian or that may be derived by gift, devise, bequest, or otherwise, for library purposes, shall be paid into the city treasury and be designated as the "Library Fund"; and be applied to the purposes herein authorized. [emphasis added.]

This means that all money transferred from the city to the library must be appropriated by the City Council. A portion of that money, including money from a dedicated property tax, must be appropriated to the Library Fund. Other money, including the significant amount of additional funding that the city provides to the library every year, is technically discretionary on the part of the city. But whether mandatory or discretionary, all the money that is transferred from the city to the library must be appropriated by City Council.

Re: Use and Management of the Library Fund

3. *It is consistent with City Charter for gifts to the library to be kept in accounts that are separate from the main Library Fund account.*

Article IX, Section 135 of the Charter provides that all revenue to the Library Fund should be designated as the "Library Fund." However, the same Charter section goes on to explain that:

If such payment into the treasury should be inconsistent with the conditions and terms of any such gift, devise, or bequest, the Library Commission shall provide for the safety of the same and the application thereof to the use of the library . . . in accordance with the terms and conditions of such gift, devise, or bequest.

A 1960 city attorney opinion suggests that: "[s]pecial accounts . . . be set up for . . . special funds so that . . . [the] funds are not commingled with general city funds or the general Library Funds." This approach is consistent with Charter section 135 and assures that conditional gifts are utilized in the way in which they were intended.

4. *If a balance of funds remains in the Library Fund at the end of the year, the disposition of those funds is within the discretion of the Library Commission with the concurrence of the city manager.*

Every year City Council appropriates money from the General Fund to be transferred into the Library Fund. In recent years, General Fund monies have provided something in the range of 90% of library revenues. Money from a dedicated property tax, from fines and from fees has made up the balance of the Library Fund.

A question has arisen about the disposition of any balance that remains in the Library Fund at the end of the year. During some past years, remaining balances were split at the end of the year. Funds in an amount proportionate to the discretionary city contribution to the Library Fund were transferred back to the City's General Fund and remaining balances were retained by the Library Fund. During other years, however, all remaining balances were retained by the Library Fund.

Article VI Section 102 of the Charter establishes that once Council appropriates General Fund monies to the Library Fund, City Council cannot then remove unused Library Fund balances and use them for other purposes. On the other hand, the Library Commission is empowered by Charter Section 132 to "do any and all things necessary or expedient in connection with library purposes." So, if the Commission determined that returning some portion of "discretionary" city funding is "necessary or expedient," it has the power to do so.

Liz Abbott
Page 4
December 17, 2007

Re: Use and Management of the Library Fund

Therefore, it appears that the Library Commission (with approval from the city manager) has several options with regard to unused fund balances.¹ It could decide to:

- a) Keep the unused fund balance money in the Library Fund; or
- b) Return the balance to the city General Fund by making a finding that this action is necessary or expedient in terms of maintaining a good relationship with the library's prime funding source; or
- c) Reduce the following year's budget request by an amount equivalent to the proportion of fund balance equivalent to discretionary monies received from the city's General Fund.

cc: Frank Bruno, City Manager
Stephanie Grainger, Deputy City Manager
Bob Eichen, Director, Finance
Kathy McGuire, Budget Manager, Finance
Jim Marshall, Financial Analyst, Library

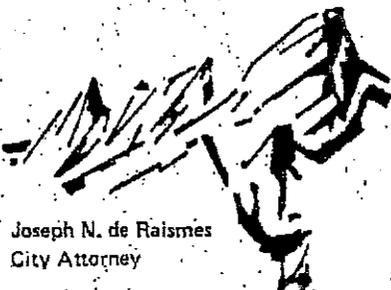
¹ The right to make expenditures from the Library Fund rests with the Library Commission, with the approval of the city manager. While this is never explicitly stated in the Charter, there are several provisions which, when read together, support this correct interpretation. Article IX, §132 of the Charter provides that "Under the direction of the city manager the Library Commission shall have control of the public library . . . and power to do any and all things necessary or expedient in connection with library purposes."

There are further indications in Art. IX, §134 of the Charter that the Library Commission has control of the Library Fund. First, in subsection (d), the Commission is given the power "[t]o purchase books, journals, publications, and other supplies;" and in subsection (e), the Commission is further given the power "[t]o order the drawing of and payment upon vouchers, certified by the chair and secretary to the city manager, of money from the Library Funds, for any liability or authorized expenditure."

These provisions are consistent with an overall approach in which the Library Commission has the authority, with city manager approval, to make expenditures for library purposes from the Library Fund.

CITY OF BOULDER, COLORADO

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Phone 441-3020



Joseph N. de Raismes
City Attorney

TO: Robert G. Westdyke, City Manager
Ruth A. Correll, Mayor, and Members of the City Council

FROM: Joseph N. de Raismes, City Attorney

RE: Funding for the Library

DATE: May 13, 1982

Following up on the March 26, 1982 memorandum of the city manager concerning the study session on library issues, the library commission's memorandum of March 24, 1982 concerning the library fund balance, Mr. Eldred Wolzien's April 7, 1982 memorandum captioned "Remarks on the Library Fund Balance" and the public comment received at the May 4, 1982 council meeting from Alice McDonald, Bryan Morgan and Michael Parnell, the city council has requested a review of the charter provisions concerning the library fund balance. After reviewing the relevant charter provisions and the above-referenced comments, it is my conclusion that the city council has the power to appropriate monies for the support of the library to the general fund rather than the library fund, and then to transfer balances, as contemplated by council's April 20, 1982 motion. However, it is further my view that the charter contemplates substantial independence for the library commission, and the funding process may not be used in such a way as to undermine the autonomy of the commission.

Sections 132 through 136 of the city charter do convey broad powers to the library commission concerning the control of the library, including the "power to do any and all things necessary or expedient in connection with library purposes." (Section 132.) The library commission is specifically granted the "charge of and management and custody of" all property acquired for library purposes, subject only to the veto of the city manager. (Sections 133 and 134.) Specifically, the library commission is authorized to make and enforce rules for the library, "to purchase books, journals, publications, and other supplies" and to expend money "from the library funds." (Section 134.) The critical section is Section 135, which requires that the city council make an annual appropriation of not less than 1/3 of a mill into "the library fund," into which "all revenue from such tax, together with all other monies collected by the librarian or that may be derived by gift, devise, bequest, or otherwise, for library purposes, shall be paid. . ." (Section 135.)

Funding for the Library
May 13, 1982
Page 2

The one other relevant section of the city charter, Section 102, provides that the city council "may transfer unused balances appropriated for one purpose to another purpose. . ." However, the charter provides that "this provision shall not apply to the water, park and library funds."

Given the plenary authority of the library commission to make expenditures for library purposes, the form of appropriation would not appear to relate in any way to the commission's autonomy. Rather, that autonomy is assured under the charter with regard to all expenditures, subject only to veto by the city manager. Thus, the only question raised by the April 20, 1982 city council motion and the above-referenced documents is the interaction between Section 135 and Section 102 of the city charter; i.e., may the city council appropriate monies for library purposes to the general fund rather than the library fund and thus preserve the option of a later transfer of balances pursuant to Section 102 of the city charter?

The opinions of City Attorneys Guy Hollenbeck and Walter Wagenhals (through Kirk Wickersham) are attached to this memorandum, and, as stated in the city manager's March 26, 1982 memorandum, support the proposition that appropriations may be made to the general fund rather than the library fund, at the discretion of the city council. The wording of Section 102 is the most critical, and it applies to "the library fund" in addition to "the water fund" and "the park fund," not to funds of the library generally. Section 135 specifically does not require that funds appropriated to the library beyond the required 1/3 of a mill be appropriated to the library fund. Rather, the monies required to be paid into the library fund include "all revenue from such tax" (i.e., 1/3 of a mill), together with fees, fines and bequests, according to their terms, and "otherwise derived revenues." Further, Section 134 of the charter speaks in the plural in giving the commission the authority to order the payment of money "from the library funds." Thus, it is apparently anticipated that plural funds may be established for library purposes.

As discussed above, both Guy Hollenbeck and Walt Wagenhals approved the concept that the city council could condition its appropriation of funds over and above the 1/3 of a mill required by the charter, while cautioning that the powers allocated to the library commission dictated prudence. I would wish to re-echo those concerns. Further, however, I must concur that the city charter contemplates the possibility that the city council may restrict funds over and above the 1/3 of a mill required by Section 132. Specifically, I would disagree with the comments of Mr. Wolzien that all appropriations for library purposes must be included in the library fund under Section 135, that all library funds are thus restricted and that library appropriations and balances cannot be transferred to other purposes. (See memorandum of April 7, 1982 at pages 1 and 2.) Rather, it appears to me that the charter contemplated plenary

Funding for the Library
May 13, 1982
Page 3

authority over the money earmarked for the library fund, while allowing alternative treatment for other funds. A close reading of Section 135 confirms this impression, in that the last sentence of such section requires that the library commission administer gifts, devises or bequests in accordance with the terms and conditions thereof, including depositing them in separate funds and accounting for them separately according to the specifications of the grant of money, should that be a condition of the receipt of the money.

The only colorable legal counter argument which I can contemplate would be to construe the wording of Section 135 of the charter to require that revenue from a general fund appropriation be deposited in the library fund. To paraphrase Section 135, the requirement is that "all . . . monies . . . that may be derived . . . for library purposes, shall be paid to the city treasury and be designated as the 'library fund.'" However, since the very next sentence indicates that gifts may be made conditional upon particular terms and must be administered in accordance with those terms, it appears that an appropriation beyond the 1/3 of a mill required by Section 135 may be made subject to particular conditions. A similar qualification is contained in Section 133, concerning the terms of the acquisition of property.

Thus, it appears that, contrary to the assertions of Mr. Wolzien and Ms. McDonald, Section 102, when read together with Sections 133 and 135, does not preclude appropriations of general funds for library purposes and transfer of such balances. It is significant that the March 24, 1982 memorandum from the library commission to the city council did not take issue with this view, held by the prior city attorneys quoted therein.

It is important to recognize that the charter provides substantial guarantees of the independence of the library commission, for expenditure of all funds of the library, not simply items deposited in the "library fund". Section 134 is particularly explicit on this point. The provisions of Section 102 concerning transfers of balances do give a potential role to the city council with the exception of monies deposited directly in the library fund, and of course, the city manager has a veto on all expenditures from the library fund. However, these powers may not be exercised in such a manner as to undermine the charter guaranteed autonomy of the library commission. Bona fide budgetary decisions are to be distinguished from usurpation of prerogatives such as the selection of books and programs, for example. The ultimate test is that of good faith.

cc Marcelle Gralapp, Director of the Boulder Public Library
Members of the Library Commission
Bryan Morgan
Michael Parnell

MEMORANDUM

July 1, 1976

TO: Walter L. Wagenhals, City Attorney
FROM: Kirk Wickersham, Assistant City Attorney lw
RE: Library Fund Disbursements

Here is the way the Library Fund works at present.
The figures approximate the actual figures for 1976.

A. Computation of Funds Available for a Fiscal Year.

1. Monies carried over from previous year	\$ 70,000
2. Revenue from earmarked tax (Charter Section 135) gifts, grants, etc. - estimate	\$125,000
3. Money appropriated by Council from General Fund	<u>\$400,000</u>
TOTAL - "The Library Fund" -	\$595,000

B. Library Budget and Appropriation for Fiscal Year as Adopted by Council \$525,000

C. "Library Fund Balance" - money in fund but not appropriated by Council \$ 70,000

The Library Commission, with the approval of the City Manager, has had discretion over expenditure of all money in the Library Fund, up to the amount of Council's appropriation. The question here concerns expenditures from the "Library Fund Balance" -- the \$70,000 in the Library Fund which was not "appropriated" by Council.

One position is that Council must pass a supplemental appropriation to enable the Library Commission to spend that money. ~~The other position is that Council loses all control over money after it is appropriated to the Library Fund.~~

Charter Sections 134 and 135 places control of the Library Fund in the Library Commission, "with the approval of

the City Manager." It is my opinion that the sections are intended to be absolute. Once money is placed in the fund, complete control over it is vested in the Library Commission and the City Manager. Further, it is my opinion that this is a governmental function of the Library Commission which cannot be delegated or transferred. An exception to this, contained in Sections 134 and 135, is a "gift, devise or bequest" with terms or conditions attached. In that case, the Commission shall implement such terms or conditions. Because the function is governmental in nature, a term or condition could only restrict the funds so given; that is, a condition on a gift could not limit the Library Commission's discretion over the general operation of the Library or the whole of the Library Fund.

It is my opinion that the Council's General Fund appropriation to the Library Fund is in the nature of a gift. The "Library Budget" adopted by Council is in the nature of a condition on the gift; however, it is done in such a way as to purport to limit the Library Commission's authority and discretion over the entire Library Fund. According to Jim Piper, there is no way to ascertain whether the "Library Fund Balance" -- the excess in the Fund over Council's appropriation -- is to come from last year's unexpended balance (N.B. -- the amounts are, however, approximately the same), from this year's earmarked money, or from this year's General Fund money. It is simply a limitation on general spending from the Library Fund, and as such violates Sections 134 and 135 of the Code. Since it is invalid, there is no distinction between the moneys on hand in the Library Fund -- the Library Commission may spend any or all of it irrespective of Council's budget.

The Library Commission's authority over the Library Fund is, as mentioned above, subject to approval of the City Manager. When Council has expressed a considered opinion on how much of the Library Fund should be spent in a given year, (as is the case here) the Manager may wish to seek the advice of Council before approving expenditures above that amount. Council's action, however, could not bind the Manager in his discretion. See Charter Section 13.

If, in the future, Council wishes to restrict or otherwise condition the use of its General Fund appropriation to the Library Fund it may certainly do so. Such restrictions could be in the form of earmarking its "gift" for any purpose it deems advisable, specifically including "savings" or a mandatory carryforward. The Library Commission would be bound to spend the General Fund appropriation in the manner designated by Council, i.e. in accordance with the terms of the gift, or it would have to "refuse" the gift -- in effect returning the money to the City's General Fund. Council could not, however, restrict the other moneys in the Library Fund in this manner.

MEMORANDUM

May 3, 1960

TO: City Council, City Manager, Library Commission and
Director of Finance and Record

FROM: City Attorney (Hollenbeck)

SUBJECT: Powers of the Library Commission in re the operation of
Library facilities and the administration of library funds.

From time to time I receive inquiries as to the powers of the Library Commission. I now have before me a request for a legal opinion as to the proper way to administer donations made to the City or to the Library Commission for library purposes.

In view of the fact that I receive requests for opinions in relation to Library Commission powers from time to time, I would like to go beyond the inquiry recently before me as noted above, and review the entire matter of the Library Commission.

I am sure that you are familiar with the fact that Section 130 and Sections 132 through 136 of the Charter concern the Library Commission. These provisions of the Charter are rather detailed and give to the Library Commission broad powers insofar as the control and operation of library facilities in the city are concerned. Unfortunately, said detailed provisions are not always clear provisions and as a result I receive from time to time inquiries in relation to the Library Commission's powers as noted above.

Let me briefly review this subject and give my opinion in relation to the powers of the Library Commission.

Creation of Library Commission and Composition Thereof

Section 130 of the Charter provides that there shall be a library commission. The commission is composed of five electors, appointed by the City Council, not all of one sex, well known for their ability, probity, public spirit, and particular fitness to serve on such commission. In January of each year the City Council appoints one member for a term of five years. The City Council has the power to remove any commissioner for non-attendance to duty or for cause. All vacancies are filled by the City Council.

Section 130 of the Charter sets out in some detail the manner in which the commission shall be organized, its officers, and the duties of said officers.

Title and Custody of Library Property

Section 133 of the Charter provides that the title of ~~all property, real or personal, whether acquired by purchase, gift, devise, bequest, or otherwise~~ for the purpose of the library or reading rooms, when not inconsistent with the terms of its acquisition, rest in the City of Boulder. The Library Commission then is given the power by Charter to take charge of and have the management and custody of said property.

At the present time, I have under consideration the question of the ownership of the present library building. That is, a question presently exists as to whether or not the terms of the transaction whereby the present library facility was acquired, were inconsistent with the ownership thereof by the City. Each question as to ownership of library property, real or personal, will have to be decided as it is presented on the specific facts of the case on the basis of the above principals.

Powers of the Library Commission

Section 132 and Section 134 of the Charter set forth the powers of the Library Commission. These powers are extremely broad and serve to give to the Library Commission and the City Manager control over the operation of the library facilities. This power, however, can only be exercised by a majority vote of all of the commission's members (note that this is not a majority vote of a quorum but a majority vote of all members) subject to the approval of the City Manager. That is, while the City Manager is not a member of the Library Commission, he has, by virtue of the Charter provision requiring his approval prior to action, been granted an absolute veto power over the actions recommended by a majority of the Library Commission. The City Manager has not, however, been granted powers to initiate any actions.

Administration of Library Funds

Section 135 of the Charter provides that the City Council shall make an annual appropriation for library purposes, which appropriation shall amount to not less than the return of one-third of a mill tax levied upon each dollar of assessed valuation of all taxable property in the City of Boulder. The revenue from such tax, together with all other money collected by the librarian or that may be derived by gift, devise, bequest or otherwise, for library purposes, is to be paid into the City treasury and be designated as the "Library Fund". The only exception to this rule is that if money is received by gift, devise or bequest in such a manner that its payment into the City treasury for the Library Fund would be inconsistent with the said gift, devise or bequest, the money then must be handled in a manner consistent with the terms of its gift, devise or bequest. ~~Special accounts should be set up for said special funds so~~

~~Library funds are not commingled with general City funds or the general fund.~~

On the basis of the above, it appears to me that the funds of the library consist of the following and are administered in the following manner:

1. The City Council must make an appropriation of at least one-third of a mill tax levy upon each dollar of assessed valuation of all taxable property in the City of Boulder for library purposes each year. This money, together with all other money collected by the librarian and all money received by gift, devise or bequest for library purposes must be placed in the City treasury in the fund designated as the "Library fund" unless the terms of said gift, devise or bequest are inconsistent with such a handling. In the event that money is received by gift, devise or bequest under terms or conditions which are inconsistent with placing said funds in the City treasury under the Library Fund (money given for a specific purpose) separate accounts or funds must be opened and said money placed therein so that said money is not commingled with other funds of the City or with general library funds.

2. The Library Commission has control over the manner in which said Library Fund is expended subject, only, to the securing of the approval of the City Manager. In the event that the City Manager does not approve an expenditure recommended by a majority of the Library Commission, said expenditure cannot be made.

3. As noted above, any funds received by the City for the Library Commission as a result of public subscription or otherwise which contain any amount in excess of the amount which they are to be expended, are to be placed in a separate fund and to be administered by the Library Commission. These funds must be expended in the manner designated in the gift, devise or bequest. The City Manager must approve the manner in which these funds are administered and expended.

4. In the event that the City Council desires to make an appropriation to the Library Fund in excess of the mill levy above noted, it can do so. However, if it makes a general appropriation in excess of said mill levy to the Library Fund, said funds then fall under the control of the Library Commission, subject to the securing of the approval of the City Manager. In the event that the City Council desires to retain control over the method in which said additional funds are expended, it can do so by making the appropriation for a specific purpose rather than for general library purposes.

5. In the event that monies are obtained for library purposes as a result of a bond issue, it is necessary to look at the terms of the bond election ordinance to determine who has control over said funds. The recent bond election authorized the City Council to issue bonds for the purposes of constructing a new library and furnishing the same. In this particular case, the terms of the ordinance are such that the City Council has control over the expenditure of said bond funds.

6. ~~Checks for the purchase of books and records must be paid for library purposes in accordance with the above.~~ Except in those specific cases where the City Council retains control over funds, checks are issued upon receipt of a request for payment, certified by the Chairman or Secretary of the Commission and approved by the City Manager.

~~Library funds are subject to the annual City audit pursuant to Section 105 of the Charter, as are all other City funds or accounts.~~

All Commissioner Communications:

- any two commissioners are allowed to discuss library or commission related topics.
- even if a commissioner has discussed a topic with other commissioners, there is no limit on the conversation other than to avoid attempting to make a decision outside of a public meeting.
- a commissioner should avoid representing another commissioner's opinion to other commissioners, staff, or the public.
- no votes or consensus should be gathered outside of a public meeting; the only exceptions are administrative decisions (i.e. deciding meeting day, time, place, etc.)
- any or all commissioners are permitted to gather outside of scheduled meetings as long as commission business is not discussed.
- if a commission decision must be made in a timeframe not permitting discussion at a regular meeting, a special meeting must be scheduled allowing as much public notice as possible (minimum 24 hours).
- all commission business communications involving more than 2 commissioners or representing a commission opinion to the public are a part of the public record and can be requested by the public at any time.

Commissioner Email Communications:

- any email sent to staff and/or one or more commissioners, regarding commission business (administrative business included) is subject to disclosure and considered public record.
- any two commissioners may exchange email on any topic; messages containing (non-administrative) commission business shall not be forwarded to any other commissioner.
- a commissioner may send informational emails to the entire commission; message should include a reminder not to "reply all" to the message. If any commissioner wants to respond or discuss the contents of the email, the topic should be added to our next meeting agenda; "reply all" only to ask for this agenda request.

Examples of all-commission emails:

- 1) informational topics to be discussed at our next meeting as "heads up",
- 2) research or public communication to be shared with fellow commissioners, not as a part of an ongoing discussion
- 3) questions being asked of staff

Questions to Library Staff:

- before sending a substantive request for information to library staff, a commissioner should discuss with and receive agreement from another commissioner to insure that this is a substantive commission request. The commission as a whole, the director, and the deputy director should then be copied on the request so that they all may be aware of the request.
- if/when staff responds via email or memo to questions from a commissioner, staff will try to answer the question as thoroughly as they can and will copy all commission members. Substantive informational emails should be added to the upcoming meeting's Commission Memo if not already included in the Staff Memo.

- if commissioners have follow-up questions that would require more than 15 minutes of staff time to respond, these should be sent to the commission chair and/or vice chair for inclusion in the “Information Request” prior to the next commission meeting.

Speaking with the Public as a Commissioner:

- commissioners should represent their ideas as personal (not as the commission) when expressing opinions, unless the commission has voted on that issue.

Preparing the Meeting Packet

I. Call for Agenda Items – Prior to their meeting with library staff to prepare the agenda and packet, the Chair or Vice Chair calls for requests for agenda items from commissioners.

II. Commission Memo

A. Deadline for submission of items – generally 1 week prior to the meeting

B. Items to be included

1. Responses to Commission Contact Forms

2. Library Commission Calendar (updated by Vice Chair)

3. FYI items, updates or relevant news

III. Department memo from staff – Commission may request information from staff. If the request is not too onerous (see Commission Communication Guidelines for further definition) then staff will include the information in the Department memo. More complex topics may be considered by Commission as possible priority discussion topics.

IV. Distributing the Meeting Packet – By the Friday before a Wednesday meeting, the packet will be posted on the Commission webpage, emailed and, to commissioners who request it, couriered.

Conducting the Commission Meeting

I. Agenda

A. The Commission Memo and Department Memo are intended to relay information and provide public notice but not for oral announcement. Discussion of items in the memos is only upon request of Commission or staff.

B. At the Commission meeting, items may be added to the agenda by commissioners or staff for a brief discussion lasting up to 3 minutes. For a longer discussion, a majority of commissioners must give approval.

II. Public Comments – The Secretary will time the public comments, limited to 3 minutes per speaker.

III. Longer Discussion Items – The Secretary will time the discussion of each agenda item and report the time elapsed for the long discussion items to the staff liaison for inclusion in the minutes.

IV. Matters Requiring a Vote

A. Abstaining – From BRC 2-3-1(f) “If a member of a city board or commission is present at a meeting and refuses to vote, the member's vote shall be recorded in the affirmative. No member is excused from voting except on approving minutes of a meeting that the member did not attend or on a matter creating a conflict of interest under chapter 2-7, "Code Of Conduct," B.R.C. 1981, or on consideration of such member's conduct in the business of the board or commission.”

B. Minority Opinion – From “Guiding Principles for Interaction Among Council, Boards, Commissions and City Staff” #6 – “When members of a Board or Commission disagree about a given issue or policy, Council expects to be apprised of the disagreements and of the reasoning underlying the various points of view.”

V. Action Summary and Approved Minutes

A. Items for inclusion in the Action Summary will be reviewed at the end of each Commission meeting

B. The Action Summary is created by the staff liaison and is submitted within a few days of the Commission meeting to the City Clerk for inclusion in the City Council information packet.

1. Because the Action Summary has not been approved by Commission, it is marked DRAFT.

2. Approved minutes are also sent to the City Council for inclusion in their packet, but because of amendments to the minutes and needing the Chair’s signature, the official minutes are often delayed for a month or more.

C. Statements Reflecting the Sentiment of Commission – Based on the practice used for City Council, all statements made by Commission in the form of a motion, even if tabled or voted down, shall be included in the Action Summary and minutes.

PART THREE: GLOSSARY OF LIBRARY TERMS

Glossary

MARC:

MAchine Readable Cataloging. "...a data format that emerged from a Library of Congress-led initiative that began nearly forty years ago. It provides the mechanism by which computers exchange, use, and interpret bibliographic information, and its data elements make up the foundation of most library catalogs used today. MARC became USMARC in the 1980s and MARC 21 in the late 1990s." (from <http://www.loc.gov/marc/faq.html#definition>)

Physical processing:

Preparatory steps involved in making it possible to circulate library materials; these include property ownership and identification stamping, and application of barcodes and call number labels, as well as reinforcement of book covers, media containers, etc., to prolong the shelf life of circulating materials.

Prospector:

"**Prospector** is a unified catalog of academic, public and special libraries in Colorado and Wyoming. Through Prospector you have access to 30 million books, journals, DVDs, CDs, videos and other materials held in these libraries. With a single search you can identify and borrow materials from the collections and have them delivered to your local library." (from <http://prospector.coalliance.org/>)