

From: Kathleen Draine <kdraineor@aol.com>

To: bcc <bcc@co.clackamas.or.us>

Sent: Fri, Jan 5, 2018 5:51 pm

Subject: Submission re proposed Amendment to Library District Master Order & IGA

Attached please find a letter to the County Commissioners regarding their pending consideration of amendments to the Library District Master Plan and IGA.

Kindly make copies of the letter available to all the Commissioners, to Mr. Krupp and to Mr. Storey. I understand the matter will be considered at an Advisory meeting on Tuesday and would appreciate if my letter could reach them prior to the meeting.

Should anyone need to contact me, I can be reached at 503-502-0064.

Thank you,

Kathleen Draine

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January 5, 2018

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First and foremost, do NOT amend the Master Order. Leave it “as is”. See section A for reasons why.

Proceed, instead, immediately to take care of the Oak Grove/Gladstone library communities. See Section C for suggestions on that process.

If you unfortunately choose to amend the Master Order, refer the adopted amendments directly to the voters, rather than forcing District citizens to petition for a referendum vote. See Section B for reasons why.

Re: Proposed Amendments to Library District Master Order & IGA/ Gladstone/County Settlement Agreement Implementation

Dear Commissioners:

This letter addresses the proposed changes to the Library District's Master Order and IGA, stemming from the settlement of the Gladstone/County library lawsuit. I am a resident of the unincorporated portion of Clackamas County and a devoted user of the LINCC System and Sandy Public Library. I was also an active participant in the formation and passage of the Library District, and attended many of the negotiations of the IGA and its underlying exhibits.

A. Why you should leave the Master Order “as is”

The Master Order, as adopted by Orders 2008-110 and 2008-189, is perfectly clear and transparent. Voters knew exactly what they were approving: a regular, predictable source of funds for robust library *services* at the city and county libraries falling within the District's boundaries. The Master Order importantly included a standard of services to which the libraries could be held accountable. That clarity and singular purpose, accompanied by a reasonable tax rate, no doubt helped produce the 61% approval vote – a stunning percentage in a time of economic hardship.

The currently proposed amendments to the Master Order, however, only muddy those clear waters. The proposed amendments seek to create something not anticipated by the voters and, worse, one with an unpredictable nature. The clear, transparent glass of water becomes a swampy, murky mess.

The amendments create a ruse that something is available when it is not. The District's current level of revenue is just enough to maintain the stated standard of service. With the pressures of Measure 5 and the upcoming heavy PERS contribution levels, the rate may actually soon be

insufficient. So, to presume, as the amendments do, there are enough unused funds to siphon off for capital purposes is misleading. The amendments might also lead voters to wonder whether the rate set in 2008 was too high for its initially stated purpose. All these oddities can only lead to mistrust, exactly what the BCC should not be creating at this time. Any funds that have fallen into reserves for Gladstone / Oak Lodge did so only because they have been delinquent in meeting their building obligations under the IGA and related documents. All other libraries are beyond that stage. Once Gladstone and Oak Lodge provide their buildings, the existence of any funds eligible at any library for reserves is a fantasy, at best.

The amendments may also imperil future capital districts in discrete Service Areas. The County has taken the position in several fora (*e.g.*, its CounterClaim in the Gladstone lawsuit and on the “About the Library District” webpage) that the District needs to remain in “services only” so as not to exclude the possibility of smaller capital districts. To quote the County: the two concepts are “*mutually exclusive.*” The proposed amendments, however, try to dance around that dual role, putting the Library Cities at risk of losing a funding option they may need in the future to maintain, improve or replace library buildings. Given the existing constraints on any city's borrowing power, the option of having a capital district that could discretely fund library capital improvements in the next 10 or 20 years is an important option to preserve for the Library Cities.

For all these reasons, the BCC should NOT amend the existing Master Order. No changes to the Master Order should be contemplated until there is a simultaneous effort to increase the tax rate.

B. If the BCC nonetheless amends the Master Order, the BCC should refer the matter to the voters

In 2008 the voters of Clackamas County vigorously accepted the Library District's precise formulation: revenue for *services* in a collective system. The participation rate on that local measure was remarkable: 74.75% of the eligible voters voted on Measure 3-310. Of those, 61.25% approved the measure.

If the BCC decides to expand the Master Order, it owes the voters an opportunity to accept or reject the expanded powers. While the rate is not being increased, the permissible use of the funds would be changed – and the voters have a right to comment on that significant a change. Under ORS 451.485(1), the BCC should exercise its right to order the referendum, as a gesture of good faith. If, instead, the BCC forces the citizenry to present a petition and collect signatures to force the referendum, rest assured that process will only generate more ill will, mistrust and skepticism of the BCC's intentions.

The BCC's self-interest in getting out of a lawsuit affecting less than a quarter of the County's population should not override the interests of three-quarters of the County. If you amend, order the referendum.

C. Suggestions on how to proceed if the Master Order remains “as is”

The BCC's quandary is lamentable. The Gladstone/Oak Lodge consolidation envisioned in 2008 was conceptually flawed, in a way not readily visible then. With the recent settlement of the Gladstone/County lawsuit, part of the flaw can be made right. But, thinking that two library buildings can be built “at no extra taxpayer expense”, as stated in County handouts, is incorrect. Saying it does not make it so, as much as the two parties may hope.

The conceptual flaw in 2008 was the County's desire that someone else foot the bill for the substantial Library building owed to the Oak Grove community. Gladstone's citizens balked at the amount the County had set aside for that purpose and here we are.

Under the construct provided by the Settlement Agreement, and to foster the good will of the Oak Grove and Milwaukie communities, the BCC should move forward constructively, and not founder in legal technicalities and distractions. The County should:

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-Pay the \$360,000 of “library purpose” funds to Gladstone, in lieu of amending the Master Order. Selecting this step should not be viewed as a “breach” but rather simply implementing one of the options foreseen in the Settlement Agreement. The parties actually benefit by immediately starting the planning process for Oak Grove.

-await the results of the May election to see if Gladstone's citizens wish to fund library improvements, before proceeding with planning on what to do in Gladstone.

-once the May election results in Gladstone are available, enact simple amendments to the IGA (see text suggestions in Section D below), which could be one of two variations:

option (i) - if the Gladstone measure passes, the County becomes the Library City for the current Oak Grove and Gladstone service areas, with two libraries, as contemplated in the Settlement Agreement. Gladstone withdraws as a Library City.

option (ii) - if the Gladstone measure does not pass, the County becomes the Library City for a newly defined Oak Grove / Jennings Lodge Service Area. Gladstone retains its obligation as a Library City, but its Service Area would be limited to Gladstone city limits. The limitation of Gladstone's Service Area would no longer obligate Gladstone to have a larger library than it has; it could do whatever it wanted, in the future, to provide itself with an alternate building.

Then, create a capital district, as contemplated in Concept Plan B, to cover the construction cost of one or two libraries, depending on the May election. I.e., either fund both libraries or only the Oak Grove library. In both cases, set the borrowed debt at the *net* amount needed after crediting any retained Reserves [instead of the gross amount, as appears in Concept B of the Settlement Agreement]. Place that measure on the ballot for Nov. 2018 to get the benefit of a large voter turnout.

The County should seriously consider how it might contribute, out of General Funds, to that capital construction. This current dispute arose out of insufficient capital having been made available for Oak Grove in 2008. Just as the County stepped up with extra funds to solve the Town Center/Happy Valley consolidation, it should do so again here. The help could be either as a lump sum (which would help reduce the amount to be borrowed and therefore the rate that would have to be approved by the public under the capital district measure) or a commitment to a yearly contribution toward reducing the debt load. Eventually, perhaps the County could exit the retail library business by having another Library City assume the operation of Oak Grove Library, once built and operational.

If a capital district is not feasible, an alternative way to achieve a new Oak Grove library space might be to see if the other Library Cities would permit all or any portion of the Reserve Fund to be used for a long term rental (10-20 yrs) and the fitting out of the new space. Once Reserve Funds ran out, the County would pick up the rent out of its General Funds (like other Library Cities) or create a capital district to then cover the construction of a new library.

D. IGA text changes if the Master Order left “as is”

If the Master Order is left “as is”, then the IGA requires only two paragraphs to implement the Settlement Agreement's plan:

add: The County shall act as the Library City responsible for the Oak Lodge Library* and any successor Oak Grove service area depicted on the map made part of Attachment B.

amended: 1.6 Transition Payments. The parties hereto acknowledge that the District distributed funds to Clackamas County for the operation of (a) the Clackamas Corner Library until the City of Happy Valley became the Library City responsible for the Happy Valley Library; and (b) for Oak Lodge Libraries pending the construction of facilities sufficient to serve the area.

Forthwith, the County shall be the Library City responsible for the Oak Lodge service *area, as currently shown on the service area maps in Attachment B or as may be enlarged in the future. No unincorporated areas currently assigned to, or reserves accumulated by, the Oak Lodge Library service area shall be reassigned or transferred to any other Library City.

[*note: if the Gladstone Library measure passes, then the County would become the Library City for the “Oak Grove/Gladstone service area, with two library buildings”. If Gladstone were to withdraw as a Library City, that might have to be reflected elsewhere in various documents.]

In sum, I urge you to leave the Master Order “as is” and to move forward in meeting the needs of Oak Grove, Jennings Lodge and Gladstone.

Respectfully submitted,
Kathleen Draine (submitted via email)

cc: Dan Krupp (County Administrator, Library District Administrator) Chris Storey (County Legal)
George Hoyt (LDAC) / Sarah McIntyre (Library Director, City of Sandy) 4