



106 Washington Avenue, Oshkosh, Wisconsin 54901-4985

## MEMORANDUM

**DATE:** April 15, 2014  
**TO:** Oshkosh Public Library Board  
**FROM:** Jeff Gilderson-Duwe  
**SUBJECT:** Trust Fund Management Options

On Monday, April 14, 2013, the board's Finance Committee is scheduled to consider my recommendation for which approach the library should take to manage its trust fund assets. State law sets out several options, which are analyzed in this memo. I hope to be able to forward a recommendation from the committee to the full board at its April 17, 2014 meeting. The board's decision will determine the next steps and future direction of the work of the Finance Committee.

To review, Chapter 43.58 (7) of the Wisconsin Statutes sets out what a public library board may do with gifts or donations that it receives. In summary, the library board may:

- 1) pay or transfer the donation to the financial treasurer of its municipality;
- 2) entrust it to a public depository institution, such as a bank;
- 3) pay or transfer it to the board's financial secretary to invest it on behalf of the board; or
- 4) pay or transfer it to a charitable organization dedicated to providing support to the public library (i.e., a library foundation or a library friends' group) or a community foundation.

### Municipal Management

By long-standing practice, the Library has used approach #1 from the list above: funds donated to the library are put under the custodial care of the Finance Department of the City of Oshkosh. I think it is fair to say that the city is not able to undertake the kind of diversified investment of the funds that is desirable. Further, the management of the many separate trust funds that benefit the Library has been an administrative burden to the employees of the city Finance Department. Even with the Library Board's endorsement of the streamlined "Funds for Excellence" approach, the city would still be faced with investing, tracking and reporting on a significant number of separate funds that have donor-directed spending restrictions. These are all reasons for the Library Board to consider choosing a new direction for investing and managing the trust fund assets under its control.

### Public Depository

The second approach open to the Library Board is to entrust the donated funds to a "public depository" institution. As defined in Chapter 34.01(5) of the Wisconsin Statutes,

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this means “a federal or state credit union, federal or state savings and loan association, state bank, savings and trust company, federal or state savings bank, or national bank in this state which receives or holds any public deposits or the local government pooled-investment fund. Although all of the institutions mentioned above would be viable options for the Library Board, should it wish to follow approach #2, the Local Government Investment Pool (LGIP) would likely be the most practical choice.

As described on its web site (<http://doa.wi.gov/Divisions/Budget-and-Finance/LGIP>):

The Local Government Investment Pool (LGIP) provides a secure investment option for all Wisconsin local governments, including counties, cities, villages, towns, school districts and other entities. By pooling local government funds with State funds, local governments may be able to realize generally higher yields over time. The LGIP provides local governments with the best of both worlds - overnight availability and improved earnings.

The LGIP funds are invested by the State of Wisconsin Investment Board. The daily LGIP operations are managed by the Wisconsin Department of Administration - State Controller's Office.

#### Financial Secretary

Of all the approaches laid out in Chapter 43, the third represents perhaps the greatest changes to the responsibilities placed upon members of the Library Board. Most significantly, the board would need a member to serve as the Financial Secretary. This would mean recruiting a Trustee who is not only willing but who has the qualifications and experience to oversee the prudent investment of the Library's trust fund assets. With these assets reaching approximately \$3.7 million at the end of 2013, an OPL Board Financial Secretary would bear a daunting responsibility. The board would need to be much more active in the oversight of the Financial Secretary and of the assets than it has been up to now. It would also need to continually look for and cultivate potential successors for the trustee serving as Financial Secretary. From a more logistical or procedural point of view, the board would also need to alter its by-laws to create the new office into which one of their number would be elected.

Our understanding of Chapter 43 leads us to believe that this approach – the placement of the trust fund assets into the hands of a Financial Secretary – will be required if the Library Board wishes to pursue use of a private sector entity, such as a bank, as an investment manager.

#### Charitable Organization Dedicated to Support of the Library

In this approach, the Library Board places its trust assets in the hands of a charitable organization which exists to support the Library. This could mean a Friends group or a foundation created expressly to benefit the Library. The Friends of the Oshkosh Public Library has for fifty years served as an association of willing volunteers, raising funds through such activities as book sales for the benefit of the Library. The OPL Friends do not currently have IRS 501(c)3 charitable organization status. In order for this group to be prepared to take on the management of the Library trust fund assets, a revolutionary transformation of leadership, membership, operations, governance and legal status would be required. This does not seem desirable or likely at present.

A second option that would exist under this approach would be the creation of a new charitable foundation, charged with providing support to the Oshkosh Public Library. This would involve the Library Board in all the tasks required to launch a new non-profit corporate entity: the creation and execution of legal agreements of various kinds as well as the recruitment of members for a new Board of Directors, not to mention an Investment Committee to oversee the investment of the library foundation's trust assets. Oversight, monitoring and liaison between the Library Board, library administration and the library foundation would also be required in perpetuity.

### Community Foundation

Since March 2012, Wisconsin library boards have had the option of transferring donated funds to community foundations, defined in the statutes [43.58 (7) (b) 1.] as organizations "dedicated to encouraging and assisting charitable activities and enterprises in a designated community in this state and having expertise in finance, fund development, and grantmaking."

At the same time, provisions were put in place [43.58(7) (b) 3.] to protect the library board's control over the timing and use of disbursements from donated funds entrusted to community foundations .

On February 12, 2014, the OPL Board's Finance Committee heard a very strong case for the wisdom of placing Library trust funds with the Oshkosh Area Community Foundation (OACF). Sam Sundet, Chair of OACF's Investment Committee, shared information about the experience and qualifications of its members. The OPL Finance Committee was impressed by the breadth and depth of experience and judgment that is represented on OACF's Investment Committee. It is unlikely that the Library Board could recruit a better group of asset management advisors in this community.

Mr. Sundet said that a representative of the Library Board would be welcome to observe at meetings of the OACF Investment Committee and that the possibility of a seat on that committee could also be explored. Investment performance reports are readily available on the OACF's public website, and detailed reports would be available to the Library and the Board's Finance Committee. OACF's administrative fees would be 1% of the market value of the Library's funds under management, assessed monthly.

The OACF's Director of Donor Services, Karlene Grabner, also spoke to the Finance Committee about the capacity of the foundation to extend and magnify the Library's own efforts at donor development. Since this activity has long remained on the Library's "to do" list, this additional benefit of a having a closer relationship with the OACF is very attractive.

### Recommendation

After examining the approaches to managing Library trust assets that are open to the Library Board, it is clear to me that transferring the funds to the OACF makes the most sense. The community-minded financial expertise of its Investment Committee would be impossible to find in an individual Library Board Financial Secretary, and very difficult to match in a library foundation investment committee. For the Library Board to pursue either of those avenues seems like a waste of effort when the OACF's expertise stands ready to support the Library. Further, the investment performance of the OACF's funds compares well with accepted benchmarks, its administrative fees are reasonable, the Library Board is offered substantial oversight opportunities if it desires to avail itself of them, its control of the disbursement of the funds is legally protected, and the foundation will help the Library cultivate new donors.