

Cooper, Bob

From: B.G. FitzGerald [bgf1980@yahoo.com]
Sent: Wednesday, September 24, 2008 2:41 PM
To: Cooper, Bob
Subject: RE: Library Question

Bob,

The county is not about to give the library any more than they have too. We are even continually denied our requests for a Library Depreciation Fund.

The Library board doesn't control any funds relating to building, maintenace, utilities, etc. from either a special library levy or from the general fund.

Okay here is a question. Since the essentials of the library (building, utilities, perhaps insurance) come from the county's general fund, is it then possible for the county to discontinue it's support for the library using general fund money? Can they just say, "We are not going to pay for a building anymore. If you want a building you will need to try and pass a special levy to gather the funds."

This all probably sounds pretty stupid, but there is so much turmoil in the county that things don't look to good. It has been said by members that if the county tries to move the library to the building the commissioners are looking at that they (the commissioners) will be met with much resistance. I am trying to find out how much leverage the Library has. If we dig in our heels, can the commissioners just say fine we won't provide any facilities, you're on your own. Or if the commissioners can't just leave the library without a building, then that would give us a little bit to negotiate on. I know that there is a statute that if a library exists it has to continue to exist, but it doesn't say that is has to exist in building.

Thanks for all the help,
 B.G.

--- On Wed, 9/24/08, Cooper, Bob <bocooper@mt.gov> wrote:

From: Cooper, Bob <bocooper@mt.gov>
 Subject: RE: Library Question
 To: "bgf1980@yahoo.com" <bgf1980@yahoo.com>
 Cc: "Reymer, Suzanne" <sreymer@mtlib.org>, "Staffeldt, Darlene" <dstaffeldt@mt.gov>
 Date: Wednesday, September 24, 2008, 12:56 PM

B.G.:

If the money for the lease, utilities, and maintenance of the library building comes from the library fund created through a library specific levy, then the library board has total control over those items. If the funding for those items come from the county general fund but are contained in the library budget adopted by the library board and submitted to the county, then the library board has the authority over those items. If those items are not contained in the library budget adopted by the library board and submitted to the county, then the county commission may decide (hopefully in close consult with the library board) to lease a different building. In this latter case, should the library board want to exercise its authority over these items, then it must be willing to assume the funding of such items through the library

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fund. It appears that in your case your library levy would need to be increased by a vote of the people in order for the library board to meet these additional costs.

To further complicate the issue, in accord with AG Opinion: Volume No. 49 Opinion No. 16 (<http://doj.mt.gov/resources/opinions2002/49-016.pdf>) if the above items are part of the library fund, regardless of whether they come from your library levy or the county general fund, then the terms of MCA 15-10-420) <http://data.opi.state.mt.us/bills/mca/15/10/15-10-420.htm>) apply. This means that a reduction in the base amount of support going to the library is not allowable in most circumstances.

This stuff gets pretty complicated. Let me know if you need further clarification. Good luck. Bob

Bob Cooper

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From: B.G. FitzGerald [<mailto:bgf1980@yahoo.com>]
Sent: Wednesday, September 24, 2008 11:09 AM
To: Cooper, Bob
Subject: Library Question

9/25/2008

Bob,

I know I haven't bugged you for awhile, but I need some insight.

The MCA 22-1-309 says something to the extent that library trustees have exclusive control of the expenditure of funds, construction and/or lease of buildings, operation and care of the library, and insurance.

The Garfield County Library currently resides, for free, in a building that the county is leasing from the school and the county pays the heat and 1/2 maintenance. The school pays 1/2 maintenance, the electricity, and the insurance as near as I can tell, it is hard to get the information. As you are probably aware the school and the county are fighting about the much overdue maintenance of the building and the county would like to terminate the lease and try and find somewhere else to stash the library. The place they have in mind is currently, it appears, worse than the place we are in now.

So, because of MCA 22-1-309, it would seem that the county would be able to tell the library to take a hike and find and pay for it's own facility, maintenace, insurance, etc. Would that be correct?

Are there any other libraries that are in this similar situation where the county pays for everything? The county hasn't said anything about this statute but it would be nice to know if they can make the library find it's own place of residence before the library board begins to make a fuss over the building the county has for us.

Thanks for the information,

B.G. FitzGerald

Garfield County Library

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