

HIGH PLAINS LIBRARY DISTRICT

BOARD OF TRUSTEES COMMUNICATION

Meeting date: December 11, 2017
Type of item: Information and Discussion
Subject : Attorney Communication
Presented by: Interim Director Tony Brewer tbrewer@highplains.us
Recommendation: Identify questions for discussion with Jeremy Rose, attorney

Background

At a recent Board meeting, there was a suggestion that Jeremy Rose, our attorney from Coan, Payton & Payne, should come for an executive session with the Board. The purpose of the session would be to answer any questions the Board has. I have contacted Mr. Rose, and after discussion, concluded that we should try a different approach. While it is appropriate for a Board to meet with their attorney in an executive session, there are two things to keep in mind: (1) executive sessions are done with specific issues in mind and (2) the intent of the Open Meetings law is that all communication should be open to the public, and executive sessions are reserved for very specific exceptions.

The Board's Questions

The suggested alternative approach is this:

- At tonight's meeting, the Board will identify questions or issues they would like to address with Mr. Rose.
- I will meet with Mr. Rose to determine which of those questions (1) would be appropriate for an executive session, (2) which could be answered by email and relayed by me to the Board and (3) which might be appropriate discussions at an open work session.

RFPs, IGAs, MOUs, Contracts, Annexations

One specific issue I addressed with Mr. Rose concerned the issue of which documents should be reviewed by our attorney, which require action from the Board, and which can be handled by staff. Two recent examples illustrate the issue. At the November 20 Board meeting, there was a discussion as to whether an RFP should be reviewed by the attorney. Half voted yes, half voted no. In addition to staff initiating RFPs, I am receiving various IGAs, MOUs, and annexations. It is not clear if each of these types of documents should be handled by a consistent process, or if the answer is something like "it depends." In speaking with other staff, it is not clear if there were established guidelines in the past. Accordingly, Mr. Rose and I agreed that one thing we can do in this interim period is to develop guidelines for how each of these should be handled, and present these to the Board for consideration.

In the absence of more formal, detailed discussion, Mr. Rose did offer the following:

" Regarding what topics should be discussed with me, I would say that anything that legally binds the District should at least be known by the attorney, even if I don't formally 'review' it. Most RFPs probably do not need to be reviewed by me, but ones with a large scope may. Contracts should definitely be reviewed by counsel, as should IGAs, as these are another contract that bind the District and often require specific language depending upon who the other party is. With regard to annexation notices, I would need more information as to what specifically these entail. If these are just notices that the underlying municipalities served by the District are expanding their boundaries, this doesn't necessarily require legal review, but it would be good to know in the event the District looks to expand/modify its boundaries.

"I believe that a significant determining factor in my involvement depends upon the Board and what they see my role being. . . If our Board wants my input on a matter, obviously I'll have to be cognizant of the issue and have previously reviewed it. In this instance, I'm thinking specifically of the failed RFP vote you mention. I assume this was the Commercial Realtor RFP from November's agenda? This RFP doesn't necessarily require legal review, but obviously if that's something the Board wants to see, then I should look at it."

Member IGAs, Platteville

As an update to the Board, I also submitted to Mr. Rose the original 1985 agreement, the member library IGAs, and the letters received from Platteville concerning property tax collections. He will be reviewing these.