

TIMBERLAND REGIONAL LIBRARY
BOARD OF TRUSTEES SPECIAL MEETING
Service Center, 415 Airdustrial Way S.W., Olympia, WA 98501

October 11, 1999

MINUTES

BOARD MEMBERS PRESENT: Peggy Meyer, President; Art Blauvelt; Jean Davies; Bill Lawrence; Douglas Mah; Janelle Williams

STAFF PRESENT: Liane Bascou; Gwen Culp; Thelma Kruse; Tina Roose; Doug Ross; Art Wuerth

GUESTS PRESENT: Kathy Beith; Ken Bragg; Yvonne Conley; Mr. Conley; Jim Winterstein

President Meyer called the special meeting to order at 7:05 p.m. The purpose of the special meeting was to receive information about Initiative 695 "Shall voter approval be required for any tax increase, license tab fees be \$30 per year for motor vehicles, and existing vehicles taxes be repealed?". Kathy Beith, of the Department of Revenue Property Tax Division (Levies), and Jim Winterstein, of the Department of Revenue Legislation and Policy Division, were present to provide information to the Board.

Mr. Winterstein explained he has reviewed the initiative as it pertains to property taxes. The Department of Revenue (DOR) is of the opinion that if the initiative passes, property taxes would be reinstated on motor vehicles. Another part of the initiative pertains to tax increases imposed by the state.

Ms. Meyer asked Mr. Winterstein how he thinks a library district such as Timberland Regional Library would be affected if the initiative passes. Ms. Kruse added that TRL's revenue primarily comes from property taxes, in addition to timber revenue and some smaller miscellaneous revenue sources, i.e. photocopiers.

Mr. Winterstein said the library district will not be impacted greatly by lowering the license tab fees. There has been a lot of discussion about the effective date of the initiative. There is a Washington State Supreme Court case regarding inheritance taxes which has decided this issue with respect to an initiative. Mr. Winterstein said he feels fairly confident that if a levy is made prior to the year 2000, it would not be directly affected by Initiative 695. He said the library district could do what it normally does under Referendum 47 in its levy process. However, TRL is unusual in that it is a five-county district. One of the counties, for example, may not provide the information that the library district needs to set the levy prior to 2000. If the levy is made after the effective date of the initiative, he thinks it would be subject to the terms of the initiative, which would mean no increase without voter approval. This may be a matter the courts will have to look at. Mr. Winterstein said his opinion is that a levy is made when some legislative action is taken that sets the amount. It becomes difficult because Referendum 47 requires a resolution which includes a dollar amount of a percentage increase which may be difficult for the library district to determine. His advice is that the library district take some legislative action even if it means not having some exact numbers to go on.

Ms. Williams requested some background on the multiple parts of I-695 since they do not seem to go together. Mr. Winterstein responded that the vehicle excise tax law became effective in 1937. At that time, we got rid of the property tax on vehicles since the excise tax was supposed to have been in lieu of

the property tax. The proponents of the initiative tried to get this on the ballot last year without the voter approval for tax increases provision. People felt that the government would just raise taxes in other ways. In order to restrict that possibility, the voter approval for tax increases was added to I-695. There has been talk of court challenges but Mr. Winterstein said he has not sure who will bring these challenges.

Ms. Williams asked about the stand that assessors across the state have taken. Ms. Beith said she understands the assessors voted on possibly sending a resolution to the legislature asking them for an exemption from collecting property taxes on vehicles because administratively it would be very costly.

Mr. Blauvelt said he just attended a Washington Association of Municipal Attorneys Conference regarding the potential impacts of I-695 on cities. The law firm of Foster Pepper & Shefelman has presented a paper in which they cite several potential legal challenges: (1) unconstitutional impairment of contract (i.e. employment contracts which sometimes require an increase of revenue, interference with union contracts, interference with bonds); (2) single subject rule violation (I-695 contains several subjects and one of those subjects is not contained in the title); (3) invalid attempt to amend the constitution (the initiative process is legislative only and cannot be used to amend the state constitution); (4) unconstitutional surrender of taxing power (voter approval requirements for all new or increased government charges could constitute a surrender of the Legislature's taxing power); (5) unconstitutional delegation of legislative authority; (6) unconstitutional amendment by reference. Mr. Blauvelt expressed concern for the cities which contract with TRL for library services. Cities are expecting to lose revenue if the initiative passes which could in turn affect a city's financial relationship with the library district. Another impact is that there would be a cutback of an organization in Seattle which has the largest library of municipal laws and resources in the state with attorneys who answer questions from cities and port districts. Without this organization, cities would be required to hire additional attorneys.

Mr. Lawrence said there have been proposals that library districts issue bonds in the future for improvements. He asked how passage of I-695 would impact that ability. Mr. Winterstein said if the library district is going to pay for bonds with an excess levy, there would be no change. Excess levy statutes are still the same and require voter approval anyway.

Mr. Lawrence asked if the valuation of property goes up and the library district adjusts its levy, would we be able to do that without voter approval? Mr. Winterstein said the levy rate could go up and down without voter approval, as long as the total levy amount for the district did not go up. In response to Mr. Mah's question, increases in fees which the library district would probably have to seek voter approval for are photocopy charges, damaged book fees, and non-resident library cards. Mr. Mah asked about taxes the district receives from timber harvest and how that rate is set. Staff explained that TRL receives timber revenue from several sources, some from taxes, some from profits from the sale of property held in trust by the counties. Mr. Winterstein said timber excise taxes are set by the Department of Revenue. He is not sure if a tax increase vote would have to go before the entire state if I-695 passes. There is a formula for distribution. He thinks the amount of timber revenue collected could go up. Ms. Beith added that it would be similar to sales taxes. If the value of timber went up, it would not be an increase imposed by the state.

Mr. Mah asked about election costs for the library district. Mr. Wuerth said an election would cost \$73,000 to \$300,000, depending on if we were on a general election ballot or ran an election issue by ourselves. The election costs are high because TRL is a five-county district.

There was discussion of how the impact of I-695 on contracting cities would affect the impact on TRL. Certainly these cities will be looking at ways to make cuts. There is the potential for cutting library services. The contract with these cities requires one of the parties to provide written notice in a specific

time period prior to the end of the fiscal year. Contracting cities may annex to the library district if arranged by the city for placement on the ballot.

Mr. Bragg said that if nothing else happens, I-695 is providing a lesson in constitutional and statutory law regarding the provisions of this initiative. I-695 is a drastic provision for tax relief. We need to ask ourselves how this happened. This is not new. Several states have had several such ballot measures. One of the library's functions is to use public information to support our democratic institutions. What has the library done to explore the underlying causes of voter apathy and popular draconian initiatives? Isn't this as important as literacy programs? Would it not help the public image of the library to sponsor this forum such as the League of Women Voters sponsor forums, maintaining neutrality. Mr. Bragg said it appears the image of the library cannot be enhanced by taking a position on I-695. The library has already brought attention to its tendency to ignore political realities by being the only jurisdiction in at least Thurston County to override the guidelines of Referendum 47. It is difficult to see how TRL taking a position on I-695 will persuade state-wide voters to change their position. Mr. Bragg said he has read the document prepared by Art Wuerth "Timberland's Educational Packet for Initiative 695" and found it very helpful in informing him about the impact of I-695. He has found no specific mention of how it will impact TRL. Mr. Bragg urged TRL to cut some high ground for itself by not taking a position on I-695 but rather conduct a forum for the sole purpose of promoting democracy through the dissemination of knowledge.

Mr. Blauvelt said he was highly vocal about his position at the last Board meeting. He did not get a feeling from the Board that they have already made a decision. Mr. Bragg admitted that there is nothing in the record on that. He said it was the way the Board went about indicating the legal requirements in order to take a legal position. There is not a record of having forums before in order to take positions. He said the kinds of questions that have been asked indicate to him there is a fear of what will happen if I-695 passes. Mr. Blauvelt said in order to take any position, whether to support or oppose, the library must give notice. Mr. Bragg said he is mainly concerned about the Board taking a position and that this meeting is being held for the expressed purpose of taking a position. Ms. Williams said until there is a vote of the Board, we do not know if we will take a position. She said the Board came to this meeting to receive information. Mr. Bragg said he hopes the Board does not take a position for the reasons he has outlined.

Ms. Roose asked for further clarification on how new construction would be impacted by I-695. Mr. Winterstein said it is DOR's view that revenue would be allowed to increase with new construction with increases in value of new construction. However, there is disagreement on this issue between DOR and legislative staff.

Mr. Lawrence said he came to this meeting with his mind made up that this matter is a political question and this Board has never discussed political questions.

99-32 . BILL LAWRENCE MOVED THAT THE TIMBERLAND REGIONAL LIBRARY BOARD OF TRUSTEES TAKE A POSITION OF NO ACTION ON INITIATIVE 695; DOUG MAH SECONDED THE MOTION.

Mr. Lawrence said he agrees with Mr. Bragg that this is not an issue this Board should be taking a position on. Ms. Davies said she came to this meeting to learn. It seems to her that if this initiative passes, it will directly affect the library's ability to do its business. She does not see how we can stay on the sidelines of this issue. Mr. Blauvelt said his main concern is this is a very misplaced effort to try to reduce taxes for certain people and it will gut public transportation. We have patrons who rely on public transportation to get to the library. He is also concerned with the requirement of voter approval on any increases. Because of this the TRL Board will not be able to do the jobs they have been appointed to do.

Ms. Williams agreed with these concerns and the impact of I-695 on the cities. It will require cities to make some difficult choices. She does not think the TRL Board can stay on the sidelines on this issue. There was a call for a vote on the motion.

BILL LAWRENCE VOTED IN FAVOR OF THE MOTION; ART BLAUVELT, JEAN DAVIES, DOUG MAH, JANELLE WILLIAMS AND PEGGY MEYER VOTED AGAINST THE MOTION. MOTION DID NOT PASS.

99-33 ART BLAUVELT MOVED THAT THE TIMBERLAND REGIONAL LIBRARY BOARD OF TRUSTEES TAKE A POSITION IN OPPOSITION TO INITIATIVE 695; JANELLE WILLIAMS SECONDED THE MOTION.

Mr. Blauvelt said he considers passage of the initiative a waste of good money; it will interfere with transportation which he considers a part of a free library, particularly in economically depressed areas; there would be an adverse impact on the library in order to do such simple things as raise the cost of photocopies which would probably lead to the library district not offering this service. Mr. Mah said Referendum 47 also provides for certain limitations with regard to the process by which the Board increases the levy and he recommends the Board work within the confines of that particular piece of legislation. He suggested that the motion be clarified to outline the rationale that the Board is taking, for example, stating that funding of contracting cities may be reduced, that any increase in fees or services we provide would require a vote of the people. Mr. Blauvelt agreed to amend his motion setting out the adverse impact of Initiative 695 on the library district. After further discussion, the following motion was made:

99-34 ART BLAUVELT AMENDED HIS MOTION AND MOVED THAT TIMBERLAND REGIONAL LIBRARY BOARD OF TRUSTEES TAKE A POSITION IN OPPOSITION TO INITIATIVE 695 FOR THE FOLLOWING REASONS: (1) THE INITIATIVE WILL DIVERT LIBRARY FUNDS FROM FULFILLING THE LIBRARY'S PRIMARY MISSION OF PROVIDING LIBRARY SERVICES TO INSTEAD FUNDING THE EXPENSES OF CONDUCTING DISTRICT WIDE ELECTIONS TO DETERMINE FEES, LEVY RATES AND OTHER CHARGES; (2) THE INITIATIVE WILL HAVE AN ADVERSE ECONOMIC IMPACT ON CONTRACTING CITIES AND THERE IS LIKELY TO BE AN ADVERSE EFFECT ON LIBRARY REVENUES FROM CONTRACTING CITIES. JANELLE WILLIAMS SECONDED THE AMENDED MOTION. MOTION CARRIED UNANIMOUSLY.

A press release will be prepared. Staff will be advised of the Board's position and will be advised that they must be very careful when discussing this initiative while they are in work status for Timberland.

There was no further business and the meeting adjourned at 8:20 p.m.



President



Secretary