

SEQUENCE OF EVENTS:

Air Conditioning Pump City Taxes—Chargebacks/IFT/Millage Benton Township Contract

JUNE/JULY 2013

Air Conditioning Pump

Monday, June 24—I arrived at the Library to find the pump in question making a grinding noise so severe that it could be heard outside the building. Our mechanical contractor, D. A. Dodd, was summoned. It was subsequently determined that the pump was close to failure due to inadequate support from the overhead piping. This was the same problem that the pump had in the spring of 2012 which required repairs by the installing contractor, Kalamazoo Mechanical. These repairs were covered by the contractor's one-year warranty on their labor and the manufacturer's warranty on their equipment.

The manufacturer is now taking the position that they will not honor their warranty due to faulty installation by Kalamazoo Mechanical. I authorized D. A. Dodd to perform the necessary repairs to the pump which were completed on Monday, July 1 and Tuesday, July 2. We have not yet been billed for these repairs. D. A. Dodd also recommends the complete replacement of the pump with a better quality unit to prevent similar failures in the future.

City Taxes—Chargebacks/IFT/Millage

Monday, June 3—I called Ms. Jody Lundquist, City Finance Director since last November, to inquire about the status of the check for the Library's share of the County Delinquent Taxes. She informed me that the County had not yet issued a check to the City for those taxes.

Friday, June 14—After confirming with our auditor that the check had been mailed out by the County, I called Ms. Lundquist again. She told me that she wanted to meet with me to discuss some issues concerning Brownfield tax captures and Michigan Tax Tribunal rulings. We agreed that she would call me later in the month.

Friday, June 28—Ms. Lundquist called me and asked to meet on the morning of Monday, July 1. She also told me that: 1) Our delinquent tax share would be reduced by about \$17,000.00 due to the Brownfield tax captures (which we already knew about from the County); 2) The Michigan Tax Tribunal rulings would require that the City pay back the County about \$338,000.00 in taxes from 2006 through 2011. The Library's share of these chargebacks is \$39,107.40. Accordingly, our Delinquent tax check of \$35,467.20 is being held by the City pending a payback arrangement for our share of the chargebacks due the County.

City Taxes—Chargebacks/IFT/Millage (cont)

Monday, July 1—Ms. Lundquist and I met in my office. She presented a schedule of overpayments to the Library by the City since 2006. I told Ms. Lundquist that the Library Board would need to approve any payback arrangement with the City. She accepted my invitation to attend our July 16 Board meeting to explain this situation to our Board members.

I also brought up the subject of Industrial Facilities Taxes. I gave Ms. Lundquist copies of e-mails with former Emergency Financial Manager Joseph Harris in which he admits that the Library is due payments of these taxes from 2006 forward. Ms. Lundquist promised to research this subject to determine how much the City may owe the Library for IFTs.

I also brought up the subject of summer taxes and the Library's millage. When I received my personal tax notice on Saturday, June 29, the Library's millage rate was 2.79260 instead of the 3.0 mills it should have been. Ms. Lundquist promised to investigate this. Later that same day, she e-mailed me to say that the increase approved in the Library's millage in November 2012 had been inadvertently left off the tax bills. The additional millage of 0.2074 mills will appear on the winter 2013 tax bills. Mr. Gordon Schreiber of the County Equalization Department has confirmed this. Ms. Lundquist further promised that the entire levy for the Library will appear on the summer 2014 tax bills.

After this conversation, I spoke with our auditor, Ms. Lynda Elie, since these issues will impact her audit of our FY 2012-13 financial records. Ms. Elie has since been investigating how much the City may owe the Library for IFTs, CFTs, Payment in Lieu of Taxes (PILOT), and delinquent personal property taxes. At my invitation, Ms. Elie will also attend our meeting on July 16.

Benton Township Contract

Early June—I called Superintendent Eldon Piontek of Benton Charter Township to inquire about the status of our next contract payment of \$57,500.00. Ms. Piontek assured me that the check would be forthcoming shortly.

Thursday, June 20—I received through the mail a check from the Township dated June 14, 2013 for \$57,500.00. The check was deposited into our Chemical Bank account that same day.

Wednesday, June 26—I received a call from Benton Charter Township Supervisor Nora Jefferson requesting a meeting with me. I suggested Friday morning, June 28, so that Library Board President Mamie Yarbrough could also attend.

Benton Township Contract (cont)

Friday, June 28—Board President Yarbrough, Supervisor Jefferson, and I met in my office. We had a pleasant discussion that centered on the financial difficulties that public entities such as the Township and the Library have been experiencing recently. Supervisor Jefferson stated that the Township would need to look at changing how they operated due to anticipated declines in tax revenue. She indicated that the Township Board would be looking at various options as they prepare the new budget for their next fiscal year which will begin on January 1, 2014. She did not offer any specific suggestions in regards to the Library's contract with the Township. Ms. Jefferson left the impression that the Township would be in contact with the Library later about this issue.

Wednesday, July 3—The edition of *The Herald-Palladium* for that date reported on a Benton Township Board meeting held the previous evening. The newspaper reported that the Township Board: *decided to end the township's annual contribution of \$115,000, plus penal fines, to the Benton Harbor Public Library as of the end of this year.*

As of the close of business on July 3, I had had no communication from the Township about this issue. I was contacted by the newspaper for comment. Since I had nothing in writing from the Township, I declined to make any statement. I did tell the reporter that the issue will be discussed at our July 16 Library Board meeting.

I called Board President Yarbrough at 9:00 am and left a message for her on her answering machine. I also sent an email to all Board members about this issue. (A phone call was made to Jewel Jones to keep her updated.)

Monday, July 8—The mail brought a letter from Township Superintendent Eldon Piontek which was dated and postmarked July 3. The letter contained three salient pieces of information: 1) It confirmed the intent of the Township to cancel the contract as of December 31, 2013. 2) It did state that *We would support your efforts to raise a district wide millage to replace the \$115,000 in lost revenue and During the next six months, we are willing to discuss millage requests, reduced contributions or other funding methods to help support the Benton Harbor Library.* 3) It also stated that *We will continue to make payments as required for 2013 .*

After consulting with Board President Mamie Yarbrough, I both called and e-mailed Library Attorney Randy Hyrns about this issue. I asked him two questions: 1) Have we been properly "noticed" about the Township's intention to terminate the contract? 2) Is it his opinion that the Township is still obligated to remit to the Library the next contract payment which is due on or before January 1, 2014?

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Benton Township Contract (cont)

Wednesday, July 10—I called Township Superintendent Eldon Piontek. Mr. Piontek assured me that the Township will remit to the Library the second contract payment of \$57,500.00 that is due on or before January 1, 2014. He also told me that he and Township Supervisor Nora Jefferson want to meet with representatives of the Library to discuss the possibility of a millage or other funding mechanisms for our Library. I told him that our Board would discuss this issue at our July 16 meeting and that we will contact him after that date.

Submitted to the Library Board
July 16, 2013

Frederick J. Kirby
Library Director