
M E M O R A N D U M

DATE: January 8, 2009
TO: City Council Members
FROM: Russell Weeks
RE: Administration Memorandum: Library Block/Washington Square Boiler Plant Costs
CC: Cindy Gust-Jenson, David Everitt, Beth Elder, Lyn Creswell, Rick Graham, Ed Rutan, Kay Christensen, Jennifer Bruno, Alden Breinholt, Laura Kirwan, Britton Lund, Colleen McLaughlin, Susan Callaway

This memorandum is meant to address issues involving the Administration's request for City Council direction to resolve questions between the Administration and the Salt Lake City Library System over how much, if any, should the Library System contribute toward the maintenance and operation of the system on the Library Block that heats and cools, the Main Library, the City & County Building, and the old Main Library Building that currently houses The Leonardo.

The issue is one of the last, if not the last, item to be resolved before the Administration and the Salt Lake City Library Board of Directors complete the first of two agreements outlining the ownership of property on what is now called the Library Block and the responsibilities of each party. If the two reach accord on the first agreement, the Library Board would like ultimately to have another agreement outlining broad demarcations of responsibility and privilege of the Administration and the Library Board.

It should be noted that *Salt Lake City Code* Section 2.28.080 titled, *Library Fund Deposits and Disbursements* says:

The Library Board of Directors shall have control of the expenditure of the Library Fund, construction, lease, sale of library buildings and land, and of the operation and care of the libraries and branches. All tax monies received for such libraries shall be deposited in the City Treasury to the credit of the Library Fund and shall not be used for any purpose except that of the City library. The funds shall be drawn upon by the authorized officers of the City upon presentation of properly authenticated vouchers of the Library Board. All monies collected by the library shall be deposited to the credit of the Library Fund. The Library Board shall purchase, lease and sell land and purchase, lease and erect or sell buildings for the benefit of the library. The Board shall be responsible for the maintenance and care of the library and shall establish policies for its operation. (Prior code □ 25-23-4)

The authority for the City Council to review and act on the City Library System's budget appears in *Title 9, Chapter 7* of the *Utah Code*. The Chapter includes the following section:

9-7-401. *Tax for establishment and maintenance of public library -- Library fund.*

(1) A city governing body may establish and maintain a public library.

(2) For this purpose, cities may levy annually a tax not to exceed .001 of taxable value of taxable property in the city. The tax is in addition to all taxes levied by cities and is not limited by the levy limitation imposed on cities by law. However, if bonds are issued for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment of the bonds and any interest may be levied.

(3) The taxes shall be levied and collected in the same manner as other general taxes of the city and shall constitute a fund to be known as the city library fund.

(4) The city library fund shall receive a portion of the uniform fee on tangible personal property in accordance with the procedures established in Subsection 59-2-405(5).

The issue pertaining to the heating and cooling system on the Library Block is the result of discussions between the Administration and Library officials about each's responsibility toward maintaining the system. According to the Administration: "What is at issue is the determination of the Library's fair share of the cost of operating the boiler room. The Library is billed and pays for its actual utility use, but the City has borne the cost of operating the boiler room since the Main Library opened in 2002."¹

The Administration transmittal estimates that the cost of operating the boiler room in the last fiscal year were \$144,289 – not including equipment depreciation and administrative fees. The Administration estimates that, based on meter readings of electrical and natural gas usage that the new Main Library used 71.6 percent of the electricity and natural gas while the City & County Building and the old Main Library respectively used 23.7 percent and 4.7 percent of electricity and natural gas that passed through the heating and cooling plant.

Based on usage and actual boiler plant costs, the Administration calculated that the Main Library's share of the boiler room costs would be \$103,310, and the City's share for the City & County Building and the old Main Library would be \$40,978. It might be noted that a May 30, 2008, City Council staff memorandum quoted Administration estimates of boiler room costs that were roughly \$125,000 higher than estimates in the Administration transmittal. The estimated cost to the Main Library at that time was about \$183,000, which, according to the Administration, also included the costs of electricity and natural gas. It might also be noted that a 2005 estimate of a potential cost allocation for operating the boiler room based on use was that the Library System should pay 25 percent of \$150,000 – about \$37,500.

In any event, if the Main Library pays \$103,310 for maintaining the boiler room, the Library Board likely will recommend a property tax increase to cover the cost. It might be noted that the Library Board indicated when it submitted the Library System budget for the current fiscal year to the City Council that it probably would seek a property tax increase in the next fiscal year, which begins July 1, 2009.

The Administration transmittal says the main question is: Going forward, "should the cost of operating the boiler room continue to be allocated to the Department of Public Services budget, or should the Library System pay a share of the boiler room operating costs, and, if so, on what basis?"² The Administration suggests three other ways to allocate costs besides allocating them by direct costs based on percentage of electrical and natural gas used. The three other options are:

- In addition to direct costs, the Library could be charged based on the percentage of use as above, but adding indirect costs such as administrative fees and depreciation.
- The City could determine what it would cost the Library to run their own boiler plant and charge on that basis.
- The City could determine what it would cost the City to operate the boiler plant without the Library and then charge the Library only for the cost above that amount.

A lot of discussion on this issue revolved around whether there was any sort of agreement between the Library Board and officials and Salt Lake City officials about shared responsibility for operating the heating and cooling system before or after the opening of the new Main Library.

It is clear that a June 2007 e-mail from former Library Director Nancy Tessman said, "We should certainly make sure that the Library is paying our fair share for the operation of the boiler. However, make certain that the method of determining those costs is fair."³

It also is clear that the City Council adopted a motion in June 2004 indicating that the Main Library was to pay \$37,500 a year as its share of the operating costs of the heating and cooling facility.⁴

¹ Administration Transmittal Memorandum, Page 2.

² Ibid., Page 4.

³ Ibid., Page 4.

⁴ Please see attachments.

all other sites, with reduced fees where applicable.

FY 2006-07 – Increase after-school program fees from \$75 to \$100 per month, with reduced fees where applicable. Summer program fees will increase from \$40 per week to \$50 per week at the Sorenson Center, with reduced fees extended where applicable. The Administration will send the City Council an ordinance regarding the proposed changes.

Parking: The Administration is preparing a program to test the impacts of free parking in a section of downtown for a short period of time. One hundred thousand dollars was cut from anticipated parking meter revenues to cover the likely cost of the test.

Telecommunications Right-of-Way Charge: All telecommunication providers were placed on a one dollar per linear foot per conduit fee schedule. This provides for equal treatment among the telecommunication right-of-way permits. It will also allow Salt Lake City to establish better monitoring and auditing procedures. This will result in a \$375,000 increase in telecommunication revenue.

Telecommunication companies that provide service in Salt Lake City and pay franchise taxes will be exempt from these fees. (This recommendation is discussed in detail in an

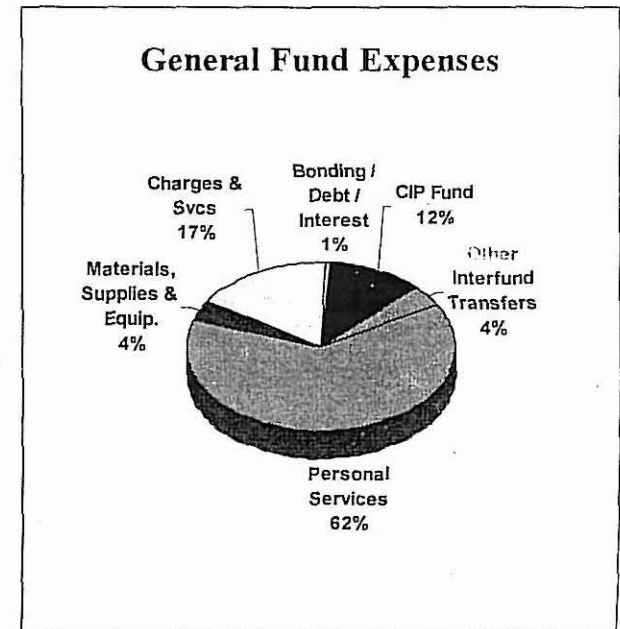
issue paper following the Key Changes Table in this section).

Boiler Room Services: The boiler room located on Library Square services three buildings; the City and County Building, the new library, and the old library. The current annual cost of operating the boiler room is approximately \$150,000, including personnel, supplies and planned maintenance. The costs necessary to operate the boiler room will be borne equitably by the tenants of those buildings. Considering all the variables including occupancy, building efficiency, separate cooling systems, hours of operation and other considerations, a good estimate for cost allocation would be approximately 25% (\$37,500) to the new library. The exact sharing allocation will be worked out by mutual agreement between all building tenants.

SUMMARY OF KEY CHANGES

This budget reflects a continued commitment to funding of Salt Lake City's capital improvement program (CIP). We support the dedication of an amount equal to 9% of the General Fund revenue to meet the City's capital improvement needs. However, this year we were faced with a choice between

severe cuts in core services or a scaling back of the amount dedicated to CIP. We funded CIP at 7% of the General Fund revenue, resulting in \$19,725,243 going to CIP, which includes \$7,817,956 for debt service for the General Obligation (GO) bonds for the Library, Hogle Zoo, and Tracy Aviary. The debt service for the GO bonds is not included in the calculation for percent of General Fund revenue dedicated to CIP, thus the amount indicated below is higher than 9%. This appropriation does not reflect a change in policy, but rather, a well considered decision based on the choices before us. The chart below shows the major expense categories for the General Fund.



Proposed Motions for Budget Adoption

FY 2004-05

Item F – 4

Resolution: Municipal Building Authority

["I move that the Council"] Recess as the City Council and convene as the Municipal Building Authority of Salt Lake City.

["I move that we"] Adopt a resolution approving the budget of the Municipal Building Authority of Salt Lake City for fiscal year 2004-05.

["I move that we"] Adjourn as the Municipal Building Authority of Salt Lake City and reconvene as the City Council.

Item F – 5

Ordinance: Library Fund

["I move that the Council"] Adopt an ordinance approving the revised tentative budget for the Library Fund of Salt Lake City, Utah for fiscal year 2004-05 including a property tax increase of \$1,700,000 (see attached spreadsheet).

- OR -

["I move that the Council"] Adopt an ordinance approving the revised tentative budget for the Library Fund of Salt Lake City, Utah for fiscal year 2004-05 including a property tax increase of \$1,300,000 (see attached spreadsheet).

- OR -

["I move that the Council"] Adopt an ordinance approving the revised tentative budget for the Library Fund of Salt Lake City, Utah for fiscal year 2004-05 including a property tax increase of \$800,000 (see attached spreadsheet).

OPTION

["I also move"] That the Library's budget include \$37,500 for additional boiler room charges from the City.

- OR -

["I also move"] That the Library's budget exclude \$37,500 for additional boiler room charges from the City until the Administration and Library can agree upon a memorandum of understanding. (Note: A corresponding decrease in the City's general fund revenue is necessary.)

LYN L. CRESWELL
DIRECTOR
MANAGEMENT SERVICES DEPARTMENT



RALPH BECKER
MAYOR

CITY COUNCIL TRANSMITTAL

David Everitt, Chief of Staff

Date Received: 10/15/08
Date sent to Council: 10/20/08

TO: Salt Lake City Council
Jill Remington-Love, Chair

DATE: October 9, 2008

FROM: Lyn Creswell
Chief Administrative Officer

SUBJECT: Library Use Agreement: Boiler Plant Costs

Alt 9/16/08

STAFF CONTACT: Kay Christensen
Senior Policy and Budget Analyst
535-7677

DOCUMENT TYPE: Briefing

RECOMMENDATION: The Administration seeks direction from the City Council regarding the allocation of costs for operating the boiler room that houses heating and cooling equipment used to serve three buildings: the City & County Building, the Main Library, and the old Main Library now named The Leonardo. Recently, two Council members have expressed the opinion that the Library should pay a fair share of the operating costs. Other Council members have not yet expressed an opinion.

Note: If the Council would like a legal briefing on the statutory relationship between the City and the Salt Lake City Public Library Board, the Administration will arrange for it with Council staff.

BUDGET IMPACT: Beginning with the FY 2008-2009 budget, part of the cost of operating the boiler room could be included in the Library System budget and part in the Public Services Department General Fund budget. There will be no increase in actual cost.

BACKGROUND/DISCUSSION: On November 3, 1998, Salt Lake City voters approved an \$84 million bond to build a new library and demolish the old buildings on Block 37 (excluding the old library). The bond covered the cost of a new 200,000 square foot library, parking for 600 vehicles, demolition of the old court building and public

safety building, creation of an outdoor plaza and replacement of the heating and cooling plant. Salt Lake City issued a bond for \$81 million in 1999 (followed by \$3 million in 2002), groundbreaking for the new library was held on October 21, 2000 and the new library opened to the public on February 8, 2003. Salt Lake City services the debt on the bonds, performs continuing disclosure requirements and makes certain that the required arbitrage calculations are done on both bonds on an annual basis (the City pays the fee for that process).

Tax records confirm that Salt Lake City has complete ownership of the land and buildings on Block 37.

Salt Lake City has been negotiating with the Salt Lake City Public Library System Board in an effort to sort out rights and obligations for each side. Discussions began in May of 2004 and, after a delay of several years, negotiations have begun again.

After several meetings and numerous drafts, agreement seems near, but one issue remains outstanding. What is at issue is the determination of the Library's fair share of the cost of operating the boiler room. The Library pays for its actual utility use, but the City has borne the total cost of operating the boiler room since the Main Library opened in 2002, and in the FY 2008-2009 Budget the allocation is part of the Building Services portion of the Department of Public Services budget. The Library System budget for Fiscal Year 2008-2009 contains no allocation for operating the boiler room.

As mentioned, the boiler room was part of the \$84 million project that built the new Main Library, Library Square, the new parking garage and ultimately the four-acre park east of the buildings. The boiler room replaced an aging heating and cooling system that served the City & County Building and the old Main Library.

Concerning that previous heating and cooling system, in 1966 an agreement was entered into between Salt Lake City, Salt Lake County and the Board of Directors of the Salt Lake City Library. The agreement concerns the allocation of heating and cooling costs for the library building. At that time, the old public safety building and the library were already constructed on the block and the Metropolitan Hall of Justice was under construction. All the buildings were designed to be served by the same heating and air-conditioning plant. The agreement notes that (in 1966) the heating plant was owned, operated and controlled by the City and the County. **The cooling equipment in the plant, it is noted, was jointly owned by the City, County and the Salt Lake City Library Board. The agreement states that the Library Board owned 28.2% of the cooling equipment in the boiler room and owned and maintained the distribution equipment connected with the Library.** The agreement spelled out the responsibilities of the parties and the sharing of costs. The Library paid for their actual fuel use plus an amount equal to 60% of the fuel cost for "repair, maintenance and replacement of the equipment and installations involved in furnishing steam and chilled water." Under the agreement, Salt Lake City and Salt Lake County each paid a like percentage for repairs and maintenance. This is the only document found that lists the Library or the Board of Directors of the Salt Lake City Library as owners of any property or facility on Block 37.

There is no record that this ownership interest was recognized or continued when the new system was installed with funds generated from the 1999 bonds.

Facilities Management has provided meter readings for the actual electrical and gas usage for the City and County Building, the Main Library and The Leonardo. The Main Library uses 71.6 percent, the City and County Building 23.7 percent, and The Leonardo 4.7 percent. Facilities Management places the total operating costs for the boiler room last year at \$144,289. This figure does not include fully loaded costs such as depreciation and administrative fees.

The following direct costs are included in the foregoing figure:

Personal services (salaries and benefits) \$107,910
Operating and maintenance supplies (chemical treatment to chilled water plant, electrical supplies, etc.) \$16,615
Charges and services (water for the cooling tower, repairs and maintenance for boilers and chillers) \$19,764

These costs total \$144,289. If the City were to charge the Library for a percentage of the cost based on the actual use of electrical power and natural gas, the Main Library would owe \$103,310 (the City would cover the \$40,978 cost of the City and County Building and The Leonardo). This figure would change each year based on use. For example, we can expect that The Leonardo's percentage of utility use will increase. In addition, Facilities has incurred a higher maintenance cost in FY 2007-2008 because of higher maintenance on aging chillers that provide needed air-conditioning. The Library has supplemental air conditioning they can use to reduce the amount of chilled water they require. Both at the City and County Building and at the Library, energy conservation measures could lower costs. All of these factors and other would affect the amount charged to each entity on a percentage of use basis.

Additional Considerations

Another point to consider is whether policy stated in a budget adopted in a previous fiscal year extends to future fiscal years. Mayor Ross C. Anderson's recommended budget for Fiscal Year 2005-2006 and the adopted Salt Lake City Capital and Operating Budget for the same year contains the following language in sections outlining changes in revenue sources for that fiscal year:

Boiler Room Services: The boiler room located on Library Square services three buildings: the City & County Building, the new library and the old library. The current annual cost of operating the boiler room is approximately \$150,000, including personnel, supplies and planned maintenance. The Administration recommends that the costs necessary to operate the boiler room should be borne equitably by the tenants of those buildings. Considering all the variables including occupancy, building efficiency, separate cooling systems, hours of operation and other

considerations, a good estimate for cost allocation would be approximately 25 percent (\$37,500) to the new library. The exact sharing allocation will need to be worked out by mutual agreement between all building tenants.”

Former Director Nancy Tessman held the following position about the Library System paying its share of boiler operations:

“We should certainly make sure that the Library is paying our fair share for the operation of the boiler. However, make certain that the method of determining those costs is fair. A speculative number was once floated that I believe was based on inaccurate distribution of utility use. ... There has been discussion that the Library should contribute to the costs (including personnel) of the boiler operations. An interesting idea, but most of the time, the boiler is only staffed during traditional City office hours (i.e. not nights and weekends). So the Library should not be expected to pay for staff that are not in the Boiler Room during close to half of the library’s operating hours. We should just make sure any distribution is fair and proportional on all levels.” (E-mail from Nancy Tessman, June 28, 2007). Note- in reality, the boiler plant is operated 24 hours a day, seven days a week, with staff currently working 8 hours a day 7 days a week.

In summary, the question appears to be: In the future, should the cost of operating the boiler room continue to be allocated in the Department of Public Services budget, or should the Library System pay a share of the boiler room operating costs, and, if so, on what basis?

If it is determined the Library should pay boiler room costs, the following options could be considered (see the chart below):

1. As explained above, a straight charge of direct costs based on the actual percentage of electrical and natural gas used.
2. In addition to direct costs, the Library could be charged based on the percentage of use as above, but adding indirect costs such as administrative fees and depreciation.
3. The City could determine what it would cost the Library to run their own boiler plant and charge on that basis.
4. The City could determine what it would cost the City to operate the boiler plant without the Library and then charge the Library only for the cost above that amount.

| | Total Cost | Library Portion | City Portion | Leonardo |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------|--------------|----------|
| 1. As stated above, a straight charge of direct costs based on the actual percentage of electrical and natural gas used. | \$144,288 | \$103,310 | \$34,196 | \$6,782 |
| 2. In addition to direct costs, the Library could be charged based on the percentage of use as above, but adding indirect costs such as administrative fees and depreciation (depreciation not included in number at this point- only Facilities indirect costs included). | \$112,010 | \$112,010 | | |
| 3. The City could determine what it would cost the Library to run their own boiler plant and charge on that basis (figures represent cost to build a new plant of approximately \$4 million, plus utility and operating costs). | \$4,559,650 Estimate only | \$4,559,650 | N/A | N/A |
| 4. The City could determine what it would cost the City to operate the boiler plant without the Library and then charge the Library only for the cost above that amount (figure based on a reduction of 40% of City costs). | \$144,288 | \$86,573 | N/A | N/A |

PUBLIC PROCESS: Discussions and negotiating sessions have been held with the Salt Lake City Public Library System Board.