



## Approved Minutes

### **Special meeting of the Fremont County Library System Board of Directors held August 28, 2023, 1:30 p.m. in person at the Lander Library and via Zoom Meeting.**

In attendance: County Commissioner Jennifer McCarty, Kristen McClelland, Marta Mossburg, Carrie Johnson, Anita Marple, Shari Haskins, Perry Cook, John Angst; Guests: Fremont County ISS Kevin Shultz and Deputy County Attorney Nathan Maxon

No public comment

**Called to order** at 1:30 PM by Chair Carrie Johnson

1. **Approval of Agenda:** John moved to accept. Approved.

#### 2. **Special Topics:**

##### **B. Meeting Room Issue**

Guest: Attorney Nathan Maxon attended to provide a legal status update on the controversy surrounding Wind River Pride renting a room at the Riverton Library and showing two movies deemed obscene by some members of the public. Some members of the public thought that allowing the movies to be shown constituted an endorsement by the Riverton Library.

He will issue a memo in coming weeks and discuss case law. He said the fact that Riverton opens rooms up to anyone makes it a public forum. In a public forum speech can't be stopped without a very narrow interest. Speech is protected. It's a clear violation of the Constitution when the government denies a speaker or speech when based solely on viewpoint.

Examples: In 1993 a church group was denied access to a school facility. The Supreme Court said the film in question is speech and is protected. Similar: a high school in Kansas removed two books that had been in collection since 1980s. School board removed the books because members had personal issues against the books. Court found against them. Spoken words, written words, symbolic speech and assemblies are among protected speech.

Not protected: child porn, commercial speech, fighting words, incitement of imminently lawless action, perjury, true threats. Child porn and obscenity not protected. What is obscene? Material that depicts or describes sexual conduct in a patently offensive way. Very hard to define.

Rated R movies would be protected speech. Government could place a time, place or manner restrictions, however. Restricting access by age would be legal.

Nathan said it is up to the board to decide if it wants to change the policy.

John said he wants to have a consistent policy so legal not called at every turn. Is there something that would be inviting more issues than preempting issues?

Commissioner McCarty said we are the only governing body in the county. We must make our own rules and policies within the law.

Perry said maybe we ask groups to take responsibility to monitor people and to ensure that attendees are age appropriate. Put onus on people renting the room. Use national rating system which is neutral to content. Add two more bullet points – language of self-policing of inappropriate materials. If a group publicizes an event, there must be a disclaimer saying it is a private event not sponsored by the library.

**Action Item:** Anita can come up with new language for this by October meeting.

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### **A. 7/31/2023 Patron Incident**

Perry: Re: filtering, blocking is non-specific because people might not be able to find relevant health information. If patrons use public computers they would agree not to look at X-rated material.

Kristen: We say you can't use profanity. No alcohol or tobacco use. We have decided this for the public good. I don't see any difference in my opinion between these issues and pornography. We can decide for the public good that we don't want it.

Marta: US vs American Library Association states that filtering computers in libraries is not a violation of the 1<sup>st</sup> Amendment.

Kevin Shultz (County IT): Technology can't recognize pornography – it's like whack a mole. Or certain words. It only knows what it knows. It has to be exact. Tech is a poor policing mechanism. It has no understanding other than what it is told. We can put filtering on. You can put it in the children's section. They all have different costs and effectiveness. There is no silver bullet that can take care of this.

John: Do you think that if we put something on the computer on a splash page that informs of patron code of conduct it would prevent bad behavior?

Kevin: We could but what do we do next?

Kristen: If someone is looking up something legit and it's blocked, how cumbersome would it be to override?

Kevin: It depends on the software.

Marta: Does the county filter porn?

Kevin: We try to minimize our workload in most cases. Technology is modestly effective. This is an office management problem. Didn't know what Only Fans was.

Commissioner McCarty: How often does this come up?

Anita: Last time in Lander she remembered going through the procedure to address a patron's conduct was 2018. It's occasional. Does it mean we catch everyone? I can't promise that either. We've tried to move computers around.

Kristen: Could you check to see browser history?

Kevin: The reason we cannot we have a product called Deep Freeze that puts it back to square one. It removes everything someone did. That said there are ways to figure some things out. Going back to the firewall.

Perry: Most people/children have smart phones and we have no control of that content. We could put filters on children's computers.

Carrie: We can't fix things immediately. It takes conversation and time to get through legal. It is not in our best interest. I just want the public to understand that we are not going to make snap decisions.

Kevin: Ballpark figure for filtering software -- 36 kid computers in 3 locations. 1000s per year. Few thousand bucks. Might not be as granular. Under \$10K a year. It will be a subscription.

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Shari: We had privacy screens and they didn't work very well. People use their own phones and computers. We haven't had problems with people arguing with librarians when cold busted by librarians.

Kevin: The children section is generally not where the problem is.

Perry: My feeling is that in five years we won't have any public computers.

Carrie: Motions to remove "child" in front of "porn" in patron code of conduct so that all porn watching would be banned in library system. Carrie decided to table that as it will be part of a number of policy changes to be discussed at a later date. MM motioned to table the resolution and all agreed.

### **C. Library Director Comment Issue**

Anita read her letter included in the FOIA emails which included her apology for using the term "ultra-conservative." She said she never lobbied the County Commissioners about any candidate nor sought to influence the selection of the Commissioners. County has found she did nothing wrong. She said everything was started by a private text to Perry.

Perry apologized for copying and pasting the private text into a group email. Perry said she thought the previous board had very diverse viewpoints and that she wanted to find candidates who were not focused on a single agenda issue.

Marta noted that she had called Anita and Perry regarding the emails. She said she thought that Perry's comments indicated that she was not capable of serving on the library board because of her pro-life beliefs noted in Perry's email. She said she found it very disturbing that Perry took one data point about her life and extrapolated many different beliefs/capabilities from it. Perry disagreed and said she had friends who worked at Abba House and were pro-life and that had nothing to do with a board application. Carrie said MM misinterpreted Perry's statements.

### **D. Board Communication Issue**

Carrie: Very upset that Kristen and Marta brought concerns to County Commissioners instead of Library Board.

Perry: She said CC so upset that later in the meeting they would not deal with Library routine business until the Board Chair intervened. Perry suggested KM and MM watch the remainder of the board meeting.

Kristen: Said she went to the board meeting not as a member of the Library Board but as a private citizen. She specifically told the CCs that she was there as a member of the public to comment about the county computer system.

Perry: Even if you go as a parent, you're viewed as a member of the board. She noted that the Library Board By-laws Policy and procedures specifically state "SECTION 5. General Policy & Procedures  
1. Communication: ... Any communication by a Board member with County Commissioners or Public Safety should first be discussed with the Board, and Board consensus should be reached prior to that discussion."

Kristen: Apologized for impacting library system function. She said she did not think that because you serve on the board, you must give up your citizenship and that board membership does not prevent her or anyone else from commenting on public policy.



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Marta: Apologized for impacting library operations. She did not apologize for alerting the CC about actions that happened before she joined the Library Board, that showed serious ethical problems at the Board in her opinion and that made joining the board immediately adversarial and uncomfortable given the language included in the FOIA emails. She respectfully requested that Jennifer—the CC Library Liaison—attend board meetings to stave off future situations like the current one and so that she would know us better and the issues facing the board.

Carrie: We need to stand together as a board even if you voted against a particular issue. She also said that as long as we don't make decisions over email we are not violating open meetings law. Carrie told MM that the emails in the FOIA did not violate open meetings law.

Kristen: As long as we are emailing the whole board.

John: Perry maybe Julie Freese could give us a primer on our language in emails.

Carrie: We'll do better.

**Adjourned at 3:30.**