

**ORDINANCE NO. 668**

**AN ORDINANCE AMENDING WILSONVILLE CODE, CHAPTER 2, TO ABOLISH THE LIBRARY ENDOWMENT FUNDS AND APPROVE THE TRANSFER OF REMAINING ASSETS TO THE WILSONVILLE PUBLIC LIBRARY FOUNDATION.**

WHEREAS, on March 9<sup>th</sup>, 1995 the City Council adopted Ordinance No. 441 that established a Library Endowment Fund for the purpose of advancing library functions including fundraising activities; and,

WHEREAS, to account for the three types of donation and designated purposes three separate accounting funds were created: (1) Library Non-Expendable General Endowment, (2) Library Expendable Capital Expansion Endowment and (3) Library Expendable Campaign & Capital Expansion Endowment, collectively referred to herein as the Library Endowment Fund; and,

WHEREAS, there has been no financial donation activity in the Endowment Fund since the 2002 library expansion; and,

WHEREAS, a separate entity known as the Wilsonville Public Library Foundation now solicits long term gifts for the Wilsonville Public Library, and has set aside approximately \$15,000 to establish an endowment fund managed by the Oregon Community Foundation to support the Wilsonville Public Library; and,

WHEREAS, the Wilsonville Public Library Board has adopted a Library Gift Acceptance Policy that will govern gifts to the Library and Foundation, and supports the transfer of the Library Endowment Fund assets of the to the Wilsonville Public Library Foundation so that it may:

1. Use the Library Non-Expendable General Endowment to establish a single professionally managed endowment fund for the benefit of the Wilsonville Public Library; and,

2. Hold the Library Expendable Capital Expansion Endowment and Library Campaign & Capital Expansion Endowment to be used in the future as deemed appropriate by the Wilsonville Public Library Foundation Board, and

WHEREAS, the City Attorney has determined that it would be legal under State law to transfer the surplus funds from the Library Endowment Fund to the Wilsonville Public Library Foundation.

NOW, THEREFORE THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

1. The transfer of the combined remaining resources of the Library Endowment Fund totaling approximately \$29,451 to the Wilsonville Public Library Foundation is approved.
2. Wilsonville Code Section 2.350 Library, Library Board and Library Endowment Fund is amended as follows (removals noted via ~~striketrough~~, changes noted in *italics*):

### **2.350 Library, Library Board and Library Endowment Fund Established**

(1) The Wilsonville Public Library, a municipal public library in and for the City of Wilsonville, Clackamas County, State of Oregon, is hereby established under the applicable provisions of ORS Chapter 357.

(2) The Wilsonville Public Library as established by paragraph 1 shall be governed by a Library Board consisting of five (5) persons who are at least 18 years of age, and who are not officials or employees of the City. In addition, one member of the City government, the Mayor or his designee, may sit with the Library Board as an ex officio member to provide liaison with the Council.

~~(3) There is hereby established as a separate fund for the City of Wilsonville for the benefit of the Wilsonville Public Library, a fund designated as the 'Wilsonville Public Library Endowment Fund'. (Amended by Ordinance #441 - March 6, 1995)~~

### **2.352 Library Board Members**

(1) Members of the Library Board shall be appointed by the Mayor with consent of the Council and may be removed by the Mayor with the consent of the Council. Any vacancy, unless caused by expiration of a term of office, shall be filled by the Council for the unexpired term of the predecessor in the office; and at the expiration of the term of any member, the City Council shall appoint a new member or may reappoint a member for a term of four (4) years. No

member shall hold appointment for more than two (2) full consecutive terms, but any person may be appointed again to the Board after an interval of one (1) year.

(2) Library Board members shall make every effort to attend all meetings. In the event that a member is absent from three meetings in any calendar year without either a pre-arranged excuse or an emergency, the Library Board may recommend removal of said member. Removal must be approved by the Council.

### **2.354 Library Board Powers and Duties**

(1) The Library Board which is first appointed and each Board thereafter shall, each year on or before July 1st, elect a Chairman and a Vice-Chairman. The librarian shall serve as secretary to the Board and keep the records of its actions.

(2) Board members shall receive no compensation but shall be reimbursed for duly authorized expenses; and no member of the Board shall have any direct or substantial financial interest in any contract for goods or services for the Library to which the City is a party. Such a direct or substantial financial interest shall not disqualify a person from Board membership, provided such person first declares his or her actual conflict of interest and abstains from participating in any design of bid specifications, negotiation, award, vote or over-seeing of such a contract on behalf of the City or its Library Board. A Board member shall disclose any potential conflict of interest in Library Board matters reasonably known to the member. Unless a majority of the remaining Board members feel that such a potential conflict would bias the member in his or her participation, it shall not disqualify the member from participation.

(a) An actual conflict of interest arises when any of the following persons have direct or substantial interest in a contract for goods and services for the Library:

1) The member of his/her spouse.

2) A brother, sister, child, parent, father-in-law or mother-in-law of the member.

3) Any business associate of the member within two years, a prospective partner, an employer or prospective employer, or any corporation in which the member owns stock of a value of \$1,000 or greater.

(b) A potential conflict of interest arises when the member has an indirect financial interest in a contract for goods and services.

(c) Any member who is not disqualified, although he or she has declared a potential or actual conflict of interest, may be counted for the purposes of establishing a quorum. (*Amended by Ordinance #324 - March 23, 1988*)

(4) Unless and until another place is assigned to it by the City Council, the Library Board shall maintain its office, hold its meetings, transact its business and keep its records at the library.

(5) The Library Board shall meet at least once a month and may make and alter rules and regulations for its governance and procedure consistent with the laws of this State and with the City Ordinances. A majority of the members of the Board constitutes a quorum.

(6) It shall be the responsibility of the Library Board to:

(a) Recommend policies for the governance of the library, and submit same for Council approval;

(b) Recommend an annual budget to the City Manager.

(c) Recommend to the City Manager for City Council action the acceptance, use or expenditure of any gift, devise or bequest to the Wilsonville Public Library ~~or to the Wilsonville Public Library Endowment Fund~~, which either includes terms, conditions or restrictions of its use which have not been generally and typically acceptable without policy review by the City Council, ~~or are in amount over \$2,500~~. The Library Director shall annually include in the budgets for the Wilsonville Public Library ~~and the Wilsonville Public Library Endowment Fund~~ an estimated revenue amount and corresponding expenditure authority for expectable gifting and shall manage such gifts, devises or bequests in accordance therewith, reporting from time to time to the Library Board the status of annual gifting. ~~The investment management of any such funds, however, shall be the responsibility of the City's Finance Director. (Amended by Ordinance #441 — March 6, 1995)~~

~~(d) Propose fundraising programs and activities to the City Council for Library purposes, including, but not limited to, the Library Endowment Fund. Upon approval by the City Council, supervise such programs and activities in accordance with advancing the Library's purpose and with such direction as the City Council may give from time to time. Administrative expenditures may be made from City funds in connection with such fundraising activities, provided such expenditures are within the authorization of the City's budget. (Added by Ordinance # 441 — March 6, 1995)~~

(e d) Perform such other functions and engage in such other activities relating to the purpose of the library as the City Council may assign;

(f e) Make an annual report to the State Library and to the City Council on a form supplied by the State Library.

**~~2.356 — Wilsonville Public Library Endowment Fund~~**

~~(1) Donations to Fund. The City may accept for the benefit of the Fund any type of gift, devise or bequest of money or property and may place in the fund such City resources as it deems advisable. However, if any donation to the Fund contains conditions or restrictions on its use, other than a designation that it be placed in the Fund, the conditions or restrictions must be reviewed by the City Council prior to acceptance. The Council, after considering a~~

~~recommendation, if any, from the Library Board, may refuse to accept any gift, devise or bequest.~~

~~(2) — Fund Accounting; Use of Fund Principal and Income.~~

~~(a) A separate accounting shall be maintained of the Fund principal and of Fund income. The value of the Fund principal is the cumulative value, or investment value, of all gifts and City resources other than Fund income placed in the Fund. All income from the assets of the Fund is Fund income.~~

~~(b) Fund principal may only be used for capital expenditures of direct benefit to the Wilsonville Public Library. Principal funds may be used only after the City Council has received a recommendation by the Library Board.~~

~~(c) Fund income is to be used to enhance the services, materials, equipment or facilities of the Wilsonville Public Library. In the annual City budget process, Fund income shall not be considered as a substitute or alternative revenue source for funding the level of library services which would otherwise be deemed appropriate to be funded by the City using other available revenue sources.~~

~~(3) — Segregation of Fund Assets. Assets of the Fund may be segregated into separate accounts, and such separate accounts may, for convenience or in order to comply with the conditions or requests of the donors, be designated by separate names. The assets of the various accounts may nevertheless be co-mingled as may be deemed expedient by the City Finance Director for investment or accounting purposes.~~

~~(4) — Investment of Fund. Assets of the Fund, including all separate accounts thereof, if any, may from time to time be invested and reinvested by the City Finance Director in such depositories or securities as may be lawful for investment of City funds. The form of fund assets may be changed from time to time.~~

~~(5) — Termination of Fund. In the event the Wilsonville Public Library, or similar successor institution, ceases to operate, the City Council may terminate the Fund and dispose of Fund assets in any lawful manner for the support of library services. (Entire Section Added by Ordinance #441 — March 6, 1995)~~

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 17<sup>th</sup> day of August 2009, and scheduled for second reading at a regular meeting thereof on the 21<sup>st</sup> day of September 21, 2009, commencing at the hour of 7 p.m. at the Wilsonville City Hall.

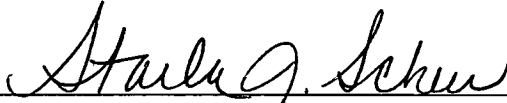
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Starla J. Schur, CMC, Deputy City Recorder

ENACTED by the City Council on the 21<sup>st</sup> day of September 2009, by the following votes:

YEAS:-4-

NAYS: -0-

  
Starla J. Schur, CMC, Deputy City Recorder

DATED and signed by the Mayor this 24<sup>th</sup> day of September 2009.

  
TIM KNAPP, MAYOR

SUMMARY OF VOTES:

Mayor Knapp	Yes
Councilor Hurst	Yes
Councilor Ripple	Excused
Councilor Kirk	Yes
Councilor Núñez	Yes