

Massachusetts Library System
Executive Board Meeting Minutes April 30, 2012

The meeting of the Massachusetts Library System (MLS) at the MLS Marlborough office was called to order at approximately 1:40 p.m. by Patrick Marshall, Vice-President.

Present: MLS Executive Board Members: William Adamczyk , Vicky Biancolo (@2 pm by phone), Charlotte Canelli, Jim Douglas (by phone), Tim Gerolami, Betty Johnson, Deborah Kelsey, Barbara Lichtman, Jean Maguire, Patrick Marshall, Andrea Taupier, Sue Wargo
Ex-officio- Greg Pronevitz, MLS Ex. Director; Rob Maier, MBLC; Gianna Gifford, LFC
Guests: Carolyn Noah, Catherine Utt

Minutes from March meeting approved. Motion- Deborah; Second-Tim. Vote: 10-0-1

School Library De-Certification

Carolyn reported that the process of checking school libraries for meeting membership criteria hadn't been done for 3-4 years. This caused the large number of schools that needed to prove their eligibility. Each library received 4 chances to provide evidence-email to school listserv, email to school librarian, letter, and lastly a certified letter to school administration. If at a later date a school can provide evidence that the eligibility requirements are met, they can easily be re-instated. Requirements for Special and Academic libraries should be reviewed.

Motion: According to certification requirements, 94 school libraries have not provided evidence showing that requirements are met and these school libraries are removed from membership in the Massachusetts Library System. Motion-Betty; Second-Tim. Unanimous.

Changes to Employee Manual and TIAA-CREF Plan Documents

To facilitate launch of BiblioTemps, the manual and TIAA-CREFF documents need to be changed to create a new class of employees-temporary employees who do not receive benefits. Summary attached at end of minutes.

Motion to approve changes to Employee Manual and TIAA-CREF plan documents. Motion-Jean; Second-Barb. Unanimous.

Contract for cooperative purchasing partnership with Mass. Higher Education Consortium (MHEC)

Greg and Catherine recommend signing a contract with MHEC which has been signed by the Executive Director/Treasurer of MHEC. The advantage to MLS members-potential for better discounts with greater buying power, and the income opportunity for MLS to receive a percentage (.5%) of the contract service fee make this an attractive partnership. Our current procurement officer has said that we are able to extend our current agreements for less than one year to allow for this transition. The new purchasing program would begin in Sept/Oct 2012. It is hoped that electronic content will be part of the co-op. No charge for MLS members to join MHEC. One disadvantage is that for profit organization libraries can't participate.

Motion to approve signing of contract for cooperative purchasing partnership with Mass. Higher Education Consortium. Motion-Andrea; Second-Deborah. Unanimous.

Funding for an R&D project

This project proposes to determine the practicality of:

- A shared cloud of e-books to be used a resource by several libraries.

- Patron driven acquisition
- The effect of collaborative collection development by diverse libraries.

If approved, it will launch in fall 2012 so that school libraries can participate. Three groups of three libraries will each receive three Kindle devices and access to a shared cloud of e-reader content. In order to participate, a library will agree to patron driven acquisition, to provide circulation and purchase information, and to make a small financial contribution ranging from \$100 - \$400, depending on library size. Priority will be given to libraries that do not already circulate e-readers. The project will purchase 10 devices for the use of each of the three groups of libraries. To supply content, the project will purchase small-denomination gift cards that libraries will provide to patrons as they check out their devices.

Questions were asked about problem of patron complaint about content, censorship issue. Rob asked that a disclaimer be included with the eReader to protect MBLC and MLS from patron complaints.

Motion to approve \$20,000 funding for the “Collaborative and patron driven e-book collection development” one year pilot project. Funding will come from the FY13 Electronic Content budget line. Motion-Deborah; Second-Adam. Unanimous.

Payment to Town of Whately in lieu of taxes

No action needed because a 10 year contract was signed between WMRLS and the Town of Whately.

Executive Board Policy Manual and Table of Contents

Carolyn scoured previous MLS Executive Board minutes and extracted all policy decisions made to date. This compilation will be posted in Dropbox with a Table of Contents. Additional policies will be added as determined.

Whately Facility Working Group Update

Dee, Patrick, Rob, Catherine, MBLC Commissioners, MLS’s attorney and Greg had a conference call with Senator Rosenberg to discuss the applicability of Mass. Chap. 7 law to sale of WMRLS assets, i.e., property and vehicles. The Senator asked us to make an effort to retain the Whately facility. MLS has engaged a Chap. 7 expert who believes Chap. 7 does not apply to sale of these assets and will supply a written opinion soon. Our attorney has recommended that WMRLS inform the Attorney General of our intent to sell the vehicles and possibly the property because when a public charity disposes of the majority of its assets the AG must be informed according to law. Eric Poulin of WMLA and Greg have contacted Congressman Olver about the possibility of loan forgiveness on the Whately building.

Strategic Planning Update

16-17 focus groups have been held. Interviews with 25 library leaders are to be conducted by task force members, MLS staff and volunteers from the Board. Barb and Sue volunteered to help. A handout with questions to be asked is prepared. Results from focus groups and interviews will be presented to the task force in June. A plan will be drafted and presented to the Executive Board at a later date. Dee needs to step back from her task force responsibilities. Another volunteer from the Board is needed.

MLS role in discussions about the future of automated networks

At a meeting of WMLA, the question of MLS/MBLC having a leadership role in the future of automated networks, i.e. one state-wide network instead of the current 10 was asked. Greg responded that it was

not an appropriate role for MLS, and urged members to work directly with the boards of their own automated networks to make progress on this issue.

ILL Center Study and Next Steps

Consultant has prepared a report of her study of ILL Centers. A committee is needed to work with Greg on the findings. Patrick and Betty volunteered. A conference call will be planned.

Nominating Committee

Time to start preparing a slate before school libraries close for the summer. Dee-chair. Board members cycling off made up the committee last year. People interested in becoming Board members will be asked to take a survey and submit a resume?

Reports

Executive Director's Report attached at end of minutes

CE and Advisory Report-Carolyn Noah attached at end of minutes

Questions were asked about the complexity of the data gathering process for evaluation of services. It was felt that staff and members would be overwhelmed if a survey has to be answered every time a phone call or email interaction occurs. A sampling of satisfaction for those will suffice. More detail for onsite advisory and continuing education-one week a quarter for online survey.

Financial-Catherine Utt attached at end of minutes

Library for the Commonwealth (LFC) –

Gianna introduced herself as the point person for the Library for the Commonwealth programming. She is chairing the Electronic Resources Committee for BPL, exploring text reference and reference service through the web, working on circulation and ILL of books from the research stacks, and coordinating the selection of materials to be digitized. BPL has hired Steven Anderson as the Digital Repository Developer; he begins on May 14. BPL hopes to fill the Web Developer job soon.

MBLC-Rob Maier

Budget process is moving ahead. House is complete and Senate version comes out on May 16th. Pilot study being conducted on Benchmarks for Public Libraries. 10 libraries invited to participate. 75 page workbook needs to be completed by participants. Maybe 5 are done.

Future Meetings for 2012

May 21 - MLS-Whatley 1-4pm

June 18 – MLS-Marlborough 1-4pm

July 23 – MLS-Marlborough 1-4pm

August 27 – Boston Public Library 1-4pm

September 24 – MLS-Marlborough 1-4pm

October 22 – MLS-Whatley 1-4pm

November 5 (Annual Meeting) - College of the Holy Cross

December 3 Morning orientation; afternoon Board meeting at MLS-Marlborough

Motion to adjourn meeting at 3:47 p.m. Motion-Tim; Sec. Deborah

Respectfully submitted,
Betty P. Johnson

MLS Executive Director Report – April 2012

MHEC Procurement Collaboration Update

Catherine and I recommend signing the MOU of collaboration with MHEC. The MHEC Board has approved the MOU (see packet).

Our current procurement officer has said that we are able to extend our current agreements for less than one year to allow for this transition. This was our outstanding issue.

Advantages for MLS collaborating with MHEC:

- Potential for better discounts with greater buying power
- Strong partner in bidding for new products and services
- Simpler purchasing process with more flexibility to choose from among multiple vendors
- Income to MLS

Disadvantages

- For profit members will not be eligible (only one affected immediately)
- Potential for greater discounts may not be realized
- Short window of opportunity
- Potential that current vendors may not sign short-term agreement during transition

What if MLS does not collaborate now?

- Opportunity for income may be diminished
- Members may migrate to MHEC and not honor commitments to MLS coop

Advocacy

- MLS staff and at least one Executive Board member attended Library Legislative Day. I visited the offices of Senators and Representatives who cover our offices with Betty Johnson and MLBC Commissioner Kronholm.
- The budget language requiring a western office for MLS was inadvertently omitted from the House Budget. Rep. Pignatelli has introduced an amendment to return it and to add \$100,000 to our budget. I am attempting to ascertain if there is a connection between the additional funding and the Whately facility specifically.
- I presented the letter of support for the school library study legislation to Rep. Garbally's aide and thanked the Rep. personally for his work with libraries on Library Legislative Day. His legislation is now an amendment to the House budget. (see attached)
- Deb Hoadley, Advisor, is leading the planning for the Joint Advocacy Training events planned with MLA, MSLA, MBLC, WMLA, CCLA, MLTA, and MFOL.

Whately Facility Update

- Dee, Patrick, Rob, Catherine, MBLC Commissioners, MLS's attorney and I had a conference call with Senator Rosenberg to discuss the applicability of Mass. Chap. 7 law to sale of WMRLS assets, i.e., property and vehicles. The Senator asked us to make an effort to retain the Whately facility.
- We have engaged a Chap. 7 expert who believes Chap. 7 does not apply to sale of these assets. We expect a written opinion soon.
- Our attorney has recommended that WMRLS inform the Attorney General of our intent to sell the vehicles and possibly the property because when a public charity disposes of the majority of its assets the AG must be informed according to law.

Strategic Planning

Our facilitator, Steve Spohn, has held most focus groups only a few remain. We will be passing his notes to the Task Force soon. We have asked for volunteers from the Task Force to conduct interviews with library leaders and not had many takers. Are any Ex Bd members interested? The Task Force will meet in June to discuss findings of the survey, the focus groups and interviews and begin drafting the plan.

Dee has asked to step back from the Task Force and will stay on as ex officio. Would any other Ex Bd member like to get more involved with this planning?

Automated Networks

At two recent meetings, attendees called for Rob Maier and me to lead a process to discuss the future of automated networks in Massachusetts. While this is an interesting topic and certainly worth discussing in an objective environment, I responded that it was not an appropriate role for MLS. I said I would pass on this suggestion to you, the Executive Board, which includes Rob Maier, to get your reaction. I urged members to work directly with the boards of their own automated networks to make progress on this issue.

MLS fy2011 Value of Service Report

Attached is a summary of the MLS Value of Service report for fy2011. The chart shows the volume of use of MLS services and the value of these services if libraries had purchased them on an individual basis. This type of report is also called a cost avoidance report.

These figures provide data that will contribute to the evaluation of the use of MLS services in terms of library type and former region. It also includes consolidated value of service reports from the former regional systems for fiscal years 2008 and 2009 for comparison purposes. The regions were unable to complete reports for fy2010. We have highlighted some items that have changed significantly between fy2009 and fy2011 and provided brief explanations at the bottom of the chart.

The overall value of service has increased by 50% from \$9.73 to \$15.03 per \$1.00 of state appropriations between fy2009 and fy2011. This is attributable to MLS's focus on core services, to savings due to closing four offices, reducing staffing levels significantly, and eliminating funding for regional reference centers.

Online Content Procurement

The joint MBLC/MLS Online Content procurement is proceeding. We have made our decisions but cannot announce until contracts are signed. MLS and MBLC will sign an MOU to allow MLS to pay one-half of the costs. For MLS this will be about \$1.1 million per year. This procurement will result in contract(s) beginning July 1, 2012. Services under consideration: general content and newspapers; genealogy, language learning tools, and encyclopedias.

Creating a Resource Sharing Vision for Massachusetts

More than 200 have registered the joint MLS/MBLC Program on May 15, 2012 event to begin a statewide conversation on the future of resource sharing.

Continuing Education and Advisory Report-March 2012- Carolyn Noah

- In March, we made 141 advisory contacts and 16 site visits, accounting for 181 hours of time with our members and 50 hours of travel. Hot topics for the month were summer reading, staff training and staff evaluation. Kelly and Deb Hoadley have begun active outreach to academic

member librarians to try to identify how we can raise awareness of MLS services and support their activities.

- 31 continuing education offerings were planned and 318 attended them. Three sessions were cancelled due to light registration, one of them on social networking and one on Flickr. 30 people enrolled in Linda.com courses.
- Some of our most successful sessions included copyright for school librarians, occupational Spanish classes for librarians, long range and strategic planning roundtables, and Every Child Ready to Read. We collaborated with the MBLC for a trustee workshop. Anna successfully launched a class in MS Publisher. We spent 92 hours of preparation time for continuing education and 50 hours in travel to present it.
- Kelly began accepting applications for BiblioTemps and attending some graduate library school career events. We are looking forward to a May launch!
- I worked with advisory staff to prepare for a May trial of our new data gathering process. Thanks to Scott for working on the survey we'll need.

Bibliotemps Handbook and TIAA-CREF Adjustments

HANDBOOK

- Handbook changes were made to establish Bibliotemps as a separate class of non-exempt employees and to then outline subsequent sections that did not pertain to Bibliotemps staff.
- Additionally, some processes differed for Bibliotemps employees. Clarification of the policies for Bibliotemps staff was included for appropriate sections.
- Lastly, some policies will be superseded by the policies of the placement site. Language to make this clear was added to the appropriate sections.
- Comments have been included for each section that mentions bibliotemps for any of the reasons above.

TIAA-CREF

With consultation with an ERISA lawyer, we determined the following and have submitted for amendment language for plan 387172 to exclude Bibliotemps employees from the Plan with allowances to ensure ERISA compliance:

1. Elective deferrals (Plan 387173)
 - a. Subject to a “universal availability” rule that generally makes it difficult to exclude employees from participation
 - b. Possible to exclude Bibliotemps personnel who “normally” work less than 20 hours/week. Treas. Reg. § 1.403(b)-5(b)(4)(ii)(E).
 - i. Employee falls into this category if employer reasonably expects employee to work less than 1,000 hours during a 12-month period (hire-to-anniversary and then either anniversary-to-anniversary or during the plan year). Treas. Reg. § 1.403(b)-5(b)(4)(iii)(B).
 - ii. But note that TIAA-CREF document does not even accommodate this exclusion – see Section II, Part C.1. While MLS could adopt a stand-alone amendment to the TIAA-CREF document, MLS would become responsible for maintaining document compliance, and it may be that TIAA-CREF will no longer be willing to administer the Plan
 - c. **Recommendation:** Practical answer is to let the Bibliotemps participate in this Plan
2. Employer contributions (Plan 387172) – This plan is subject to the eligibility rule in ERISA § 202 and to IRC § 410(b), the minimum coverage rule, by way of the application of IRC § 403(b)(12) and Treas. Reg. § 1.403(b)-5(a)(iv)
 - a. ERISA § 202 provides that an otherwise eligible employee who is at least age 21 must be permitted to participate by (for a calendar year plan) not later than the next January 1 or July 1 following completion of 1 year of service
 - i. Example 1: Full-time employee age 26 hired 1/2/2011 must be permitted in the plan no later than 7/1/2012
 - ii. Example 2: Full-time employee age 26 hired 12/30/2011 must be permitted in the plan no later than 1/1/2013
 - b. This does not, however, mean that employees cannot be excluded by class
 - i. Neither ERISA nor the Internal Revenue Code require that a plan of this type cover all employees
 - ii. But both the DOL and the IRS are suspicious of employee classifications that might otherwise be simply an end-run around the age/service limit, such as an exclusion of “part-time” or “seasonal” employees. Treas. Reg. § 1.410(a)-3(e)(2)(Example 3). A few years ago, an informal memo was

circulated within the IRS in the qualified plan context that suggested a further crack down in this area, potentially making exclusions of, for example, “temporary” employees problematic under IRC § 410(a). That provision is similar to ERISA § 202, but IRC § 410(a) itself does not explicitly apply to this Plan. Whether the DOL would take the same position, however, is not clear. We could look further into all of this but if you are willing to live with the proposal set forth below (you thought it unlikely to ever apply to more than a handful of folks when we talked the other day), there is little point in researching.

- c. **Recommendation:** Amend Section Two, Part C.2 pertaining to Employer Contributions by checking the “Other” box and adding the following description of classification for exclusion from the Plan:

Bibliotemps; provided, however, that a Bibliotemp shall become a Participant in the Plan on the January 1 or July 1 coinciding with or immediately following the date on which he or she first satisfies the following requirements: (i) attains age 21; and (ii) completes at least 1,000 Hours of Service during the 12-month period beginning on his or her hire date and ending on the first anniversary thereof, and thereafter during the 12-month period coinciding with the Plan Year, commencing with the Plan Year beginning after the hire date.

- i. With this language (and leaving aside age for the moment), once a Bibliotemp has been around MLS long enough to have completed a 1,000 hours in a 12-month period, he or she will become a participant
- ii. He or she will, however, only receive an allocation if he or she also performed 1,000 hours of service during the applicable Plan Year (Section Three, Part E.4.a)

3. The minimum coverage rule provides that a certain percentage of employee must accrue benefits under the Plan

- a. Highly compensated employee (HCE) is currently defined (for 2012) as one who earned more than \$110,000 in 2011 (for 2013, it will be one who earned more than \$115,000 in 2012); a nonhighly compensated employee (NHCE) is anyone not classified as an HCE
- b. If MLS has no HCEs, the Plan automatically passes coverage. Treas. Reg. § 1.410(b)-2(b)(6).
- c. Based on the potential size of the excluded Bibliotemp group, once MLS has any HCEs, it may be quite difficult to exclude all of the Bibliotemps as a group and still pass this coverage test