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MEMORANDUM

TO: Grant Lynch, Executive Director

FROM: Julie M. Gay, Assistant City Attorney

DATE: February 9, 2017

RE: Disposal of Library Materials

Section 43.58(1), Wis. Stats., provides that the library board “shall have exclusive charge, control and custody of all lands, buildings, money or other property...” In a legal comment by the League of Wisconsin Municipalities, it opines that library boards have “nearly autonomous powers” with regard to operation and administration of municipal libraries. My search of case law did not reveal any relevant decisions with respect to the question posed.

The city common council certainly has management and control rights over public property. Section 62.11(5), Wis. Stats. The authority granted in that section, however, is qualified as follows: “Except as elsewhere is the statutes specifically provided, the council shall have management and control of city property...” The authority granted to library boards in sec. 43.58 is such specific provision of authority. I find no other statutes that restrict the ability of the library to dispose of the magazines in the manner desired.

In conclusion, despite the city’s financial policy regarding surplus property, the library board has statutory authority to control its materials. Therefore, its choice to donate outdated magazines to certain entities or groups is within its authority.

cc: Kevin Lahner