



CITY COUNCIL ACTION REPORT

TO: Members of the Troy City Council

FROM: Phillip L. Nelson, City Manager
Lori Grigg Bluhm, City Attorney
Tonni L. Bartholomew, City Clerk

SUBJECT: Ballot Question

Background:

- State law provides two ways of submitting proposed charter amendments to the voters:
 - Charter amendment ballot questions can be submitted by a 3/5 vote of City Council.
 - Charter amendment ballot question can be submitted by initiatory petition.
- Initiatory petition charter amendment questions can either be set forth in full on each circulated petition sheet, or it can be determined by a resolution of City Council. Initiative petitions that satisfy statutory criteria must be presented to the voters for action.
- Proposed charter amendments must be in the form of a question, and each ballot question must include an impartial statement of purpose in 100 words or less. The Attorney General's Office reviews each proposed charter amendment ballot question to insure compliance.
- Through the preparation of the proposed ballot language, a flaw in Section 9.16 was discovered. This section uses the term "assessed valuation." Proposal A created a new term, "taxable value." The City of Troy is now required, under State Law, to use taxable value as the basis for calculation. Therefore, the Troy City Charter should be amended to be consistent with State Law. This can be accomplished by placing a charter amendment question before the voters. A proposed ballot question is as follows:

A PROPOSAL TO CHANGE THE TERM "ASSESSED VALUATION" to
"TAXABLE VALUE" IN ORDER TO BE CONSISTENT WITH STATE LAW.

Shall Section 9.16 be amended by replacing the term "Assessed Valuation" with the term "Taxable Value," so that it would read as follows:

"The Council shall not raise annually by a general tax upon the real and personal property liable to taxation within the City such sums of money not to exceed in amount 0.8100 percent of the taxable value of all such taxable property, as it shall deem necessary to defray all expenses and expenditures set forth in the budget and to pay all the liabilities of the City." Yes _____ No _____

- According to the Attorney General's Office, initiatory petition charter amendment ballot questions must be true to the language circulated on the petitions. The most conservative form of the initiatory petition charter amendment ballot question, therefore, is as follows:

1) A PROPOSAL TO AMEND THE TROY CITY CHARTER BY ADDING SECTION 9.16.5- MILLAGE RATE LEVY LIMITATION.

Shall Section 9.16.5 regarding Millage Rate Levy Limitation be added to the Troy City Charter as follows:

"Section 9.16.5- Millage Rate Levy Limitation: The Council shall not increase the millage rate imposed pursuant to Section 9.16 of this charter above a current rate actually imposed, levied, and collected unless the increased rate shall be first approved by a majority of the City electors voting on the question."

Yes _____ No _____

- At the July 21, 2008 City Council meeting, City Council requested alternative proposals for consideration. Council could possibly submit the following alternate charter amendment ballot proposal, which is a different way of phrasing the statement on the initiatory petitions. However, since the language varies from the actual language contained on the circulated petitions, the Attorney General may or may not approve the language of the following question:

2) A PROPOSAL TO AMEND THE TROY CITY CHARTER BY ADDING SECTION 9.16.5~~1~~- MILLAGE RATE LEVY LIMITATION.

Shall Section 9.16.~~1~~5 regarding Millage Rate Levy Limitation be added to the Troy City Charter as follows:

"Section 9.16.~~1~~5- Millage Rate Levy Limitation: The Council shall not increase the millage rate imposed pursuant to Section 9.16 of this charter above a current rate actually imposed, levied, and collected 0.8100 percent unless the increased rate shall be first approved by a majority of the City electors voting on the increased millage rate question."

Yes _____ No _____

- Upon information and belief, the following ballot questions are also re-statements of the language on the citizen initiated charter amendment petition.

3) A PROPOSAL TO LIMIT THE MILLAGE RATE TO 2008 LIMITATIONS.

Shall Section 9.16, Tax Levy; Limitations of the Troy City Charter be amended to reduce the maximum amount of the general tax levy that Council can raise on real and personal property from the current millage of one percent to a reduced millage rate of 0.81 percent?

Yes ____ No _____

4) A PROPOSAL TO LIMIT THE CITY'S TAX LEVY TO 0.8100 MILLS

Shall Section 9.16, Tax Levy; Limitations of the Troy City Charter be amended by reducing the "one percent" allowable municipal levy limitation to "0.8100 percent," which would then read as follows:

"The Council shall not raise annually by a general tax upon the real and personal property liable to taxation within the City such sums of money not to exceed in amount 0.8100 percent of the assessed valuation of all such taxable property, as it shall deem necessary to defray all expenses and expenditures set forth in the budget and to pay all the liabilities of the City." Yes _____ No _____*

*The current language uses the term "assessed valuation." As noted above, the term should actually be changed to "taxable value." This change would require a separate ballot question, since each ballot question is limited to one subject.

- Council has the option of approving the form of the initiatory petition ballot proposal question and also approving any other ballot question as a Council initiated ballot proposal (requires 3/5 vote).
- City Administration has not hired outside experts to analyze the potential impact of the ballot proposal(s), due to Campaign Finance Act limitations. Under the Campaign Finance Act, it is a misdemeanor for a public body to knowingly "use or authorize the use of funds, personnel, office space, computer hardware or software, property, stationary, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure . . ." in support of a ballot question (MCL 169.257).

There are exceptions to this prohibition, including:

- Elected or appointed public officials with policy making responsibilities can express views without violating this provision.
- The production and/or dissemination of factual information concerning issues relevant to the function of the public body is permitted.

Financial Considerations:

- Should City Council choose to produce and/or disseminate factual information concerning these ballot questions, outside counsel should be retained. Upon request, names of attorneys who specialize in tax law will be provided for Council's consideration.

Legal Considerations:

- City Council can propose amendments to the existing city charter to be submitted to the voters at the next election. This action would require a 3/5 vote of the members-elect. (MCL 117.21 (1))
- Proposed initiatory charter amendments submitted in compliance with State Law SHALL be submitted to the voters. (MCL 117.21(1))

Policy Considerations:

- Troy is building for a healthy economy reflecting the values of a unique community in a changing and interconnected world.

Options:

- City Council can resolve to approve the form of the initiatory petition charter amendment ballot question (majority vote).
- City Council can approve additional charter amendment ballot question(s) (3/5 vote).

LGB. Ballot Language Proposals