

AGENDA

Special Meeting of the

CITY COUNCIL OF THE CITY OF TROY

MONDAY, JULY 20, 2009

CONVENING AT 6:00 P.M.

PERMITTED BY MAYOR CALL NOTICE

Submitted By
The Acting City Manager

NOTICE: Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk at (248) 524-3316 or via e-mail at clerk@troymi.gov at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

TO: The Honorable Mayor and City Council
Troy, Michigan

FROM: John Szerlag, Acting City Manager

SUBJECT: Background Information and Reports

Ladies and Gentlemen:

This booklet provides a summary of the many reports, communications and recommendations that accompany your Agenda. Also included are suggested or requested resolutions and/or ordinances for your consideration and possible amendment and adoption.

Supporting materials transmitted with this Agenda have been prepared by department directors and staff members. I am indebted to them for their efforts to provide insight and professional advice for your consideration.

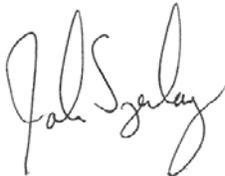
Identified below are outcome statements for the City, which have been advanced by the governing body; and Agenda items submitted for your consideration are on course with these statements.

Outcome Statements

- I. Troy enhances the health and safety of the community
- II. Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues
- III. Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world

As always, we are happy to provide such added information as your deliberations may require.

Respectfully submitted,



John Szerlag, Acting City Manager



**CITY COUNCIL
SPECIAL MEETING
AGENDA**
July 20, 2009 – 6:00 PM
Council Boardroom
City Hall - 500 West Big Beaver
Troy, Michigan 48084
(248) 524-3317

| | |
|--|----------|
| CALL TO ORDER | 1 |
| ROLL CALL: | 1 |
| DISCUSSION ITEM: | 1 |
| 1. Discussion of City Manager Contract | 1 |
| PUBLIC COMMENT | 1 |
| ADJOURNMENT | 1 |

NOTICE: Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk at (248) 524-3316 or via e-mail at clerk@troymi.gov at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

CALL TO ORDER

ROLL CALL:

- (a) Mayor Louise E. Schilling
Robin Beltramini
Cristina Broomfield
David Eisenbacher
Wade Fleming
Mayor Pro Tem Martin Howrylak
Mary Kerwin

ABSENT:

- (b) Absent Council Members

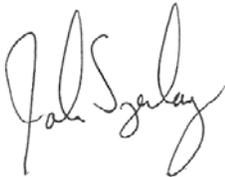
DISCUSSION ITEM:

- 1. Discussion of City Manager Contract

PUBLIC COMMENT

ADJOURNMENT

Respectfully submitted,



John Szerlag, Acting City Manager



MEMORANDUM

TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: July 16, 2009
SUBJECT: Discussion of City Manager Contract

The hire of A. John Szerlag as Troy City Manager presents some unique issues, due to his status as a City of Troy retiree. Outside labor counsel Craig Lange has been charged with the responsibility of negotiating a contract with Mr. Szerlag, which is the subject of discussion at the Special Meeting of July 20, 2009. Once a mutually agreeable contract is reached, it can be approved at the regular meeting of July 20, 2009, as a regular business item, and would satisfy the current charter requirement that requires appointment of a City Manager within 120 days.

John Szerlag has been serving as Acting City Manager since April. In that capacity, he has been considered a temporary employee (working less than 1,000 hours per year), and therefore has been able to continue to receive his pension from the City of Troy. However, with the appointment as City Manager, Mr. Szerlag necessarily assumes the status of a full time employee. Although there have been some suggestions to consider Mr. Szerlag as an independent contractor, there are some hurdles to this approach under existing law.

Since Mr. Szerlag is a retiree and also an employee, he is required under the current ordinance, Chapter 10, Section 52, to have his pension suspended. This section states:

52. Pension Suspended. Except as otherwise provided in this Chapter, in the event a retirant or beneficiary is employed or re-employed by the City in a position which requires membership, payment of his pension shall be suspended during the period of his employment or re-employment. Upon termination of such employment or re-employment in a position which requires membership, his pension shall be re-computed, and he shall receive the new re-computed pension or his prior pension shall be resumed, whichever is the greater amount.

Under Section 4:

Membership. The membership of the Retirement System shall include only those persons who are classified as full time on the records of the Human Resources Department of the City, and shall specifically exclude but not be limited to the following: (1) any employee who is employed by the City in a position normally requiring less than 1,000 hours of work per annum, (2) any person whose services are compensated on a contractual or fee basis, (3) volunteer firefighters as such, (4) elected officials of the City, and (5) employees classified as part time, seasonal or temporary, on the

records of the Human Resources Department of the City regardless of the number of hours actually worked by the employee in any calendar year.

In case of doubt as to the membership status of any employee, the Board shall decide the question.

The ordinance vests the authority to determine membership exclusively with the Employees Retirement System Board of Trustees. If the Board were to somehow determine that Mr. Szerlag fit within one of the specific exemptions of membership, then he would not necessarily need to suspend the receipt of his pension. Under the provisions of Section 2, "the Board of Trustees is vested with the power and authority to administer, manage and operate the retirement system, and to construe and make effective the provisions of this Chapter." This expressly includes authority over the Defined Benefit and Defined Contribution retirement plans (as again set forth in Section 53).

Another option is to pursue an amendment of the ordinance. However, any such amendment could not be given immediate effect unless there was a health, safety, or welfare concern. Any amendment to the ordinance must also be in accordance with the provisions of the Employee Retirement System Investment Act, MCL 38.1140h (2002 PA 728), where any changes to a retirement system require an advanced actuarial analysis.

This advanced actuarial analysis would also be required for any other changes to Chapter 10, including but not limited to a change to Section 57, the Vesting Provisions under the Defined Contribution Plan.

I am happy to address any additional questions or concerns that may arise when Council considers the terms of the contract with A. John Szerlag. Craig Lange, our outside labor counsel, will be present at the Special Meeting of July 20, 2009.