



## CITY COUNCIL AGENDA ITEM

Date: September 29, 2010  
 To: Members of the Troy City Council  
 From: Lori Grigg Bluhm, City Attorney  
 Subject: Library Proposals/ Ordinance Initiative Petition

Absentee ballots for the November 2010 election were mailed this week. In addition, there was a recent front page Oakland Press article about a new library petition initiative. This, combined with the public comment at City Council meetings, has prompted several questions to City Administration about the library ballot proposals and the proposed ordinance initiative petition. Since these initiatives are citizen driven, and not City sponsored, City Administration is not able to answer many of the questions of the residents, and must defer to the petition filer(s), as set forth below. City Administration's role was to verify that the appropriate number of valid signatures were affixed to the petitions, and then to forward the petitions, as received, to the Oakland County Clerk for placement on the ballot.

It is apparent that many voters are not sure of the impact of voting on one or all of the four proposals. However, the City can only provide procedural guidance to voters. I expect that in addition to the questions received by City Administration, City Council has also received several inquiries, and may find the following overview helpful.

Under 1877 PA 164 (MCL 397.210a), citizens can petition for a ballot question to ask the voters whether they support a tax to establish a free public library. Although the statute allows for the tax to be up to 2 mills, all four ballot proposals seek under 1 mill to establish a new, independent library. The State Statute also requires the ballot question to indicate the duration of the collection of the millage, which, in all four cases, is ten years or less. (One of the proposals, as filed, has an internal conflict which references both a three year and a ten year term). The levy is based on the millage, and therefore, the actual amount collected is dependent on the taxable value of property in the City. This amount, if approved by the voters, would be segregated and could only be used for library operations.

If one or more of the four ballot proposals pass, then a new independent library board (Library Board), independent of City Council, must be established. City Council appoints the initial provisional board, based on fitness for office, until the next municipal election. The elected non-partisan library board members would eventually serve six year terms, but the initial terms are set up to accommodate staggered terms (2 year, 4 year, and 6 year terms initially).

The Library Board would be responsible for the operation of the library, including the hiring and administration of employees, acquisition of property (real and personal), maintenance, etc.. The disposition of the library building, contents, and collection would be determined by Council as part of the implementation of the successful passage of the ballot question(s). Council may wish to donate, lease, or sell to the Library Board any or all of the above, guided by the best interest of the public.

The City would be responsible to collect the library millage, up to the maximum amount approved by the voters and as determined through the Library Board's budgeting process, just as the City collects on behalf of the school district, the county, etc.. The requested amount would be transferred to the



## CITY COUNCIL AGENDA ITEM

Library Board. The Library Board does not have any authority to issue bonds or to demand anything other than what is approved by the voters. The Library Board would be subject to the Open Meetings Act and the Freedom of Information Act, which provides transparency.

If more than one of the four separate proposals were approved by the voters, it would be my recommendation, based on analogous scenarios, that Council direct the collection of the approved millage, based on the proposal receiving the highest number of votes.

In addition to these four ballot proposals, a separate initiative petition for an ordinance concerning the library was mentioned during the public comment portion of the September 20, 2010 City Council meeting. Although this issue is not a matter for the November 2010 ballot, it has been suggested that this proposal is an option in addition to or in place of the four independent library proposals. Similar to the four ballot proposal questions, this petition is not City sponsored. To the best of my knowledge, City Administration has not seen a copy of the petition that is being circulated, nor has it been requested, since there are statutory restrictions tied to using City resources for election questions. However, it may be beneficial for City Council, as well as members of the public, to be informed about this legislative process. Under Troy's Charter, Section 5.11, citizens can circulate petitions, seeking the adoption of a new legislative ordinance. Any such petition must set forth the entire text of the proposed new ordinance, and must be signed by at least 2,000 registered electors of the City within a 90 day period of time. If such a petition is filed, the City Clerk would verify that the signatory requirements are satisfied. The petition would then be submitted to the Troy City Council for review. Under Section 5.12, the City Council has thirty days to either adopt the ordinance as submitted, or refer to the voters. There is a minimum six month period of time where Council would be prohibited from amending or repealing an ordinance passed through the initiative process, under Charter Section 5.14.

According to one of the speakers at the September 20, 2010 City Council meeting, it appears that the petition proposes an ordinance that requires the City to operate a library for 55 hours per week. State Statute limits the initiative process to legislative matters, and does not allow for ballot questions on administrative matters. This distinction between administrative and legislative matters led to a Charter Amendment ballot proposal in November 2005, seeking authority for advisory ballot questions. If filed, City Council would determine if the proposal meets the legislative criteria. Council could decide to place an administrative proposal on the ballot as a non-binding advisory question.

Declaratory actions may also be initiated. These are lawsuits asking for a Court ruling for clarity or procedural guidance, as opposed to a lawsuit seeking monetary damages

According to the Petition Receipts of Filing, the following individuals filed ballot question petitions:

Library Millage Proposal 1-	Rhonda Hendrickson
Library Millage Proposal-	William M. Redfield
Library Millage Proposal-	Kathleen O'Loughlin
Library Millage Proposal-	Robert D. Outland

Additional filing information is available at the City Clerk's Office.