



CITY COUNCIL AGENDA ITEM

Date: November 1, 2010

To: Mayor and Members of Troy City Council

From: John Szerlag, City Manager
Lori Grigg Bluhm, City Attorney
Tonni L. Bartholomew, City Clerk

Subject: Receipt of Petition – Addition to the Troy City Ordinance

The City Clerk's office received a petition filing from Mr. Edward Kempen on Tuesday, November 9, 2010. The Clerk's office is in the process of verifying the signatures placed on the petition and expects to certify the petition to City Council, pursuant to the City of Troy Charter, Section 5.11 – Initiatory and Referendary Petitions. There are approximately 2,560 signatures to be verified. The petition can only be signed once by each registered voter; therefore the Clerk's office must also confirm that multiples signatures are not included in the signature count. Additionally, the Clerks office will confirm that the signatures were collected within the 90 day time period, and that circulators of the petitions are registered voters in the State of Michigan, as well as compare signatures and log necessary information. This, in addition to the time required to finalize the November 2, 2010 election and carry on all other regular office functions, is estimated to require most of the 15 days for review. It is anticipated that the petitions will be certified and placed before City Council at the first City Council meeting in December. However, if the petition is insufficient, the petitioner will be granted a fifteen day extension to gather supplemental signatures, which may delay the date that the petition is presented to City Council.

Once the petition is presented to City Council at a Regular meeting, under Charter Section 5.12, the City Council shall, within thirty days, proceed as indicated: "(a) Adopt the ordinance as submitted by an initiatory petition"; or "(c) Determine to submit the proposal provided for in the petition to the electors." Should Council determine to submit the proposal to the electors by an affirmative vote of the members elect (4 Council members), the proposal "shall be submitted at the next election held in the City for any other purpose..." This election must be within 150 days from the time the petition is presented to Council. Currently, it is anticipated that the Warren Consolidated School District will elect Board Members at the May 3, 2011 Election, which is within the 150 day time limitation. Should the ordinance be placed on this election, the City will bear all financial responsibility to hold the election.

The initiative petition states: "*Addition to the Troy City Ordinance: In order to assure access to quality local library service, the City of Troy shall operate and maintain a public library open to the public for not less than 55 hours each week.*"

This initiative ordinance proposal is actually administrative, as opposed to a legislative initiative. As such, City Administration is concerned about adoption of administrative ordinances. Case law distinguishes legislative initiative and administrative proposals, and clearly indicates that City Council, as the elected entity, cannot defer administrative decisions to the electorate. Petition circulators were advised of these concerns prior to circulation of the petition. However, the charter is silent as to these distinctions.

This initiative proposal does not identify any funding sources or the scope of service for “quality local library service.” Therefore, City Council has several options, including adopting the ordinance as proposed, investigating funding sources as part of the normal budgetary process, determining the scope of library operations, placing the proposed ordinance on the May 3, 2011 Election, seeking clarity, or a combination of these options. Should Council chose to adopt the proposed ordinance, as with any City ordinance, once adopted, an ordinance can be expanded, amended, or repealed at any time through official Council action once additional parameters are defined or identified.

TLB/Agenda Item 11.15.2010/tlb