



500 West Big Beaver
Troy, MI 48084
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CITY COUNCIL AGENDA ITEM

Date: June 16, 2020

To: Honorable Troy City Council Members

From: Lori Grigg Bluhm, City Attorney

Subject: Creating an Independent Library

At the last Troy City Council meeting, there was some discussion about the procedure that would need to be followed to create an independent library. Troy's library was created under the Home Rule Cities Act, MCL 117.4 (e), and it is currently a City department. Its annual budget is approved by the Troy City Council as a unit within the City's budget. However, there is currently a dedicated millage, which is required to be used only for library purposes, in accordance with the explicit ballot language approved by the voters. Five years ago, the voters were provided with the clear statement of the purpose and duration of the millage, as required by MCL 211.24f. Following the approval of the millage, the City separately accounts for the library millage proceeds to show that the dedicated millage is used only for the library, and is not being used for other City of Troy general fund purposes. In contrast, under the current structure, there is no prohibition against the City of Troy allocating other funding for library operations, maintenance or capital improvements. This has allowed for the City to pay for the roof and other necessary building repairs, which required more money than what was raised with the library millage. One of the options before City Council is the ability to ask the voters to pass a dedicated millage for library operations, and continue the existing format, allowing for more fluidity.

If the voters were to ultimately reject Council's proposed library operations dedicated millage in November 2020, this does not necessarily mean that the library would need to close. There is an option under MCL 397.210a to petition for an independent library, which is expressly authorized by MCL 397.212, even if there was an existing library under a different structure. This was changed in 1980 to allow for this in any size community, where it was previously allowed only for those smaller communities (less than 10,000 residents). Under this statute, the City could receive a valid petition, signed by at least 50 registered voters, seeking to establish an independent library. Upon receipt of the petition, City Council would be required to ask the voters to approve a funding amount, up to two mills, for an independent library which would be exclusively governed by an independent board. If the voters approved the request, then there would initially be a provisional appointed board, but the first available opportunity would require an election for a staggered term six member library board.

Converting a department library to an independent library is a bit more complicated under MCL 397.201. This law from 1877 contemplated the initial establishment of a library, and provided a means for funding it that would allow for dedicated taxation beyond the millage limitations. Under this statute, municipalities can levy up to one mill to support an independent library. Municipalities could also ask the voters to approve up to one additional mill for library purposes. Under this statute, the dedicated funding would be governed by an independent library board. The case law makes it clear that City Council would have no authority over the real and personal property under the jurisdiction of an independent library board.



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Under an option with an independent library board, there would need to be a transition period to allow for the negotiation of a lease or a purchase of the building from the City, as well as the library collection and furniture and fixtures, all of which currently belong to the City. An independent library board would also need to assume all human resource responsibilities, which would require a separation of the existing staff, and the hiring of a new staff under the supervision of the independent library board, and the negotiation of an employee benefits package, including retirement benefits. This could potentially adversely impact some of the current library employees.

The independent library board would also need to assume all legal functions, and would need to immediately draft new bylaws and regulations and policies and ordinances allowing for the independent board's authority to impose late fees and penalties. The independent board would also need to assume the accounting function, which would likely require acquisition and training with new financial software. Custodial services, building and lawn maintenance and snow plowing services and other services would also need to be secured by the independent board.

This type of a separation is further complicated by the timing of the receipt of the dedicated millage funds. There would be no funding until the tax levy was received.

Based on all of the above, it would be an extraordinary challenge to transition to an independent library prior to June 30, 2021. City Council would need to weigh any unique benefits deriving from a conversion to an independent library against the effort required to transition to a new structure.