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Red is Fine

After several months of leaving messages, I was finally able to get a hold of Red. He is doing fine and misses attending City Council meetings and especially the TDDA meetings. There is a community nearby that has a DDA and he has considered attending their meetings but hasn't at this time. He does move around but still needs the assistance of a walker. I found him in good spirits and began sensing some of that fire that was missing the last time I talked with him last year. Hopefully I will be able to contact him more easily than was the case these past few months. We talked for about an hour and he was able to fill me in on what has been going on. Red's recovery from the stroke seems to be progressing quite well considering that many in his case have suffered paralysis over some parts of their body. I wish Red well and hope he does begin communicating more with his friends back here in Troy.

5:23 AM | [Add a comment](#) | [Read comments \(1\)](#) | [Permalink](#) | [Blog it](#)

March 18

Some observations on Eisenbacher's H-2 resolution

When this item was discussed at the March 3, 2008 meeting, I was surprised at some of the comments that were made in that just like a sieve they didn't hold much water. Then at the March 17, 2008, Mr. Arkin made some good points but also repeated some of the inaccurate comments from the meeting before.

The simplest inaccuracy discussed at both meetings concerned the last resolved which states:

“BE IT FURTHER RESOLVED, That Troy City Council WILL NOT ASK its Taxpayers for a new tax increase to fund a new Troy Public Library”

Both Councilwoman Kerwin and Mr. Arkin made statements that since no end date was included, the city council would never be able to ask for or request to place on the ballot a request for a new tax increase to fund a new library. **Hogwash!!!**. As we saw tonight and as everyone knows, whenever 4 members of the city council want to reconsider a previous resolution, they could. Even if there was a legal reason that a previous resolution could not be reconsidered, at any future meeting, 4 members could pass a new resolution that over ruled this resolution.

As to comments by the city manager and repeated by others that capital projects would suffer since where would the money come from ignores some basic facts. One, Last year there was a 3.5 million dollar surplus. The \$1,000,000 of that surplus that was placed into the budget stabilization fund (which isn't counted in the 17% unreserved cap) could just as easily been placed into the library fund. Two, The TDDA has over \$10,000,000 in their unreserved fund that by law should have been returned to the taxing authorities.

“125.1665 Transmitting and expending tax increments revenues; reversion of surplus funds; abolition of tax increment financing plan; conditions; annual report on status of tax increment financing account; contents; publication.

Sec. 15. (1) The municipal and county treasurers shall transmit to the authority tax increment revenues.

(2) The authority shall expend the tax increment revenues received for the development program only pursuant to the tax increment financing plan. Surplus funds shall revert proportionately to the respective taxing bodies.”

Approximately \$6,000,000 should have been returned to the city of Troy. Not all of the \$6,000,000 would be available as that portion from the refuse tax and debt service can only be used for those uses, but approximately \$5,000,000 could have been placed into a library fund. But that would require the city council and city management to seek enforcement of the law which they will not do. After all they are “Leveraging” tax dollars. While they are leveraging, Oakland County services are being cut back (see my March 11, 2008 entry below).

I still support building a new library and thus asking the Troy Residents for a millage to build it. But that doesn't mean I won't speak out against miss information or expose attempts to use the community support for a new library to raise taxes for other uses (see my February 29, 2008 and February 22, 2008 comments).

4:39 AM | [Add a comment](#) | [Permalink](#) | [Blog it](#) | [City of Troy](#)

Laid on the Table

Did you notice the number of items that were laid on the table for the city council to vote on during their March 17, 2008 meeting? Last month I had asked the city council to start making those items available to the residents by posting those items on the city web site and adding those items in the next city council meeting. I will not be holding my breath waiting for that to occur since I have made similar requests when John Szerlag was the city manager.

Both methods would be very easy and simple to implement. On the web site, a third column could be added to the electronic agenda web page that would provide a link to all the late added items not previously included in the city council packet as well as any documentation provided by the public and distributed to the city council during the meeting. In the city council packet, a new item could be added that identified the previous meetings late additions not previously included.

The city council started providing the city council packets at the library and now on the web site so that the residents would have more access to the information on the issues being decided by the city council. When items and documentation are not included because they were not available at the time the council packets were put together, that defeats the purpose of keeping the residents well informed. 10 years ago when I first began attending city council meetings on a regular basis, this was not a problem since rarely were items laid on the table. Today, it seems to happen at every meeting and no longer just one item but several items are laid on the table.

I would hope that if the city manager doesn't rectify this situation soon that city council would then pass a resolution to force this to happen. That is what it took to get the packets available at the library in the first place.

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March 11

[Follow up on "Whose Authority"](#)

I sent a copy of my "On Whose Authority" Blog entry to the city council and city manager plus a few other people. Mr. Nelson replied the next day stating:

"Mr. Howrylak spotted the same language and notified staff yesterday. There was an amended item on the table that Council acted on. Thanks for the message."

I was curious as to what the revised resolution was and asked for a copy for which I received. There were three words added to the resolution. Now we all know how important that even a one word change can have but these three words did nothing to address my concerns. They added "the" before Troy City Council which does nothing except make a grammatical correction and the words "in aggregate" before "over \$10,000" which only adds to the charter violation.

I replied with the following:

"I received the text of the revised resolution and that wording does not alter the fact that the charter requires city council to approve expenditures over \$10,000, in aggregate or alone. On what legal basis does the city council have to change the charter requirements without going to the people to change the charter? Does your definition by in aggregate mean that you can buy the budgeted \$100,000 worth of operating expenditures, say consulting fees from a specific consultant, in monthly amounts of \$9,000 and not require city council approval? Could you buy \$50,000 of any NON-CAPITAL good without city council approval by breaking it up into amounts less than \$10,000? Was there any accompanying text that went with the text changes to explain why this was not in conflict with the city charter? If there was, will it be made available on the web site as items laid on the table that I had discussed at a previous city council meeting so residents can see all of these last minute additions and changes that seem to becoming a constant practice with this city council and management?"

I knew that the city charter does not allow breaking up purchases to circumvent the \$10,000 limit as it clearly states that in Section 12.1. I was wondering if those that were writing the resolution understood that?

I was at the Troy Public Library when I sent my reply and as I was leaving, my path crossed with the Troy City Attorney. We had a very, very brief discussion on my initial email. The city attorney did send a follow up email that does represent what she stated during our brief discussion. Her email stated:

"Victor- Just to confirm our brief discussion at the library yesterday... City Administration is bound by the terms of the charter. Any capital expenditures exceeding \$10,000 will be submitted to City Council for their review and/or approval. Resolutions do not change the charter. The charter also prohibits any end run around of the \$10,000 expenditure limit. The only thing that was on the table on Monday night is the revised resolution, which you have been provided with."

My response to this email was the following:

"The resolution had two aspects, one to authorize participation in the NIPA program and two to allow city management to make non capital purchases with out city council approval when it exceeded the city charter limit that required city council approval. If city administration is bound by the city charter, what was the purpose of the resolution adding language to allow the city management to make non capital purchases without city council approval when it exceeded the charter limit of \$10,000? The only purpose I can see, unless someone can provide me with another explanation, was to let city management make "all" purchases of non capital items without having to get city council approval no matter what the cost was. I agree that resolutions do not change the charter, but what was the purpose of the second part other than to tell management you don't have to bring non capital purchases to the city council table for approval no matter what the amount is. City management could then proceed to do just that and who will hold them accountable to the city charter. No one. Following the Rule of Law is something that even George W. Bush has stated he doesn't have to do. Just look at his signing statements. You might say we have a signing statement with this resolution."

Some of you may wonder why I have spent so much time on this little item. I am spending the time because if no one is willing to hold the city council and city administration accountable, they will be emboldened to ignore the rules and regulations that are in place. If you don't believe me, go to my web site <http://Lenivov.com> and click the TDDA tab and read what has occurred with the TDDA. Let me know if you agree with me or with them.

I met with Councilwoman Broomfield and Councilman Fleming at Wades' house soon after they were elected in 2005. I presented them with my case against the TDDA. They agreed with what I was saying but excused themselves from acting upon my information by saying "What can we do? What is done is done." Yeah, right. With Tax fighters like that, we can expect to see a big show in front of the cameras when they give us back a few pennies, but no comments while the TDDA rips the dollars from our wallets behind the curtain backstage. What you hear at the council table is that the TDDA is "leveraging" tax dollars. That's right. They are taking the Oakland County tax dollars and the result has been cut backs at all levels in Oakland County services, including the sheriff's department and prosecutors office. Way to go. The only fighting they are doing is fighting to let the TDDA keep **DIVERTING** our tax dollars for their own use while county and city services suffer. But what do you expect when **Rhetoric** outweighs **Substance**. Way to go "Tax Fighters".

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March 04

[On Whose Authority?](#)

I read the city council agenda for March 3, 2008 and was curious to see if anyone would ask to exclude item F-04c from the consent

agenda items. I didn't hear anyone ask for it to be exempted so I briefly left the room. If it was discussed during those few minutes, I apologize if my concerns were addressed. Approving this resolution as printed would be in **violation** of the **City Charter Section 12.1**.

The resolution states:

RESOLVED, That Troy City Council hereby AUTHORIZES participation in the National Intergovernmental Purchasing Alliance Program (NIPA) and for administration to approve purchases over \$10,000.00 for operating expenditures under this program, while "Capital purchases over \$10,000.00 continue to be presented for Troy City Council review and pending approval.

In the City Council Action Report associated with this item, the only comment listed under **Legal Considerations** was "All contracts are competitively bid as required by Chapter 7 of the City code." But what about meeting the requirements of the city charter?

I won't print the entire section but the first three paragraphs state:

Section 12.1 - Purchase and Sale of Property:

The City Manager shall be responsible for the purchase and sale of all City property.

Comparative prices shall be obtained for the purchase or sale in amount not in excess of ten thousand dollars of all materials, supplies and public improvements except (a) in the employment of professional services and (b) when the City Manager shall determine that no advantage to the City would result.

In all sales or purchases in excess of ten thousand dollars, (a) the sales or purchases shall be approved by the Council, (b) competitive bids shall be obtained through a traditional sealed bid procedure or alternative methods, providing the method used preserves the integrity of the competitive process, except where the Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids, and (c) the requirements of Section 12.2 shall be complied with. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The Council may authorize the making of public improvements or the performance of any other city work by any city agency without competitive bidding.

You will note that paragraph three requires the city council to approve "ALL" sales or purchases in excess of ten thousand dollars. Can the city council delegate this authority away? Without express authority in the charter to do so, I would venture that they can't. After all, this section has been amended several times over the years but only through ballot questions as required by law. (The second paragraph exceptions only apply to prices not purchases).

As a concerned resident and taxpayer, did city council approve a resolution that has no legal basis to be implemented by the city manager? Did they overstep their authority? Is this just an item that has slipped through the cracks?

I believe that this was just an item that slipped through the cracks, but would hope that the legal department would deliver a legal opinion as to whether this resolution is in fact legal. I would also hope that the city manager would not use this resolution as justification to approve non Capital purchases over ten thousand dollars. But then how would anyone know if he does?

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March 01

[Where does Troy stack up with Per Capita Taxes](#)

We constantly hear or read about how little Troy residents pay per person per day for city services. Whether it is touted in the "Message from the City Manager" in Troy Today or regularly mention during city council meetings by city manager Phil Nelson. I was curious as to how the City of Troy compares with other cities. I was provided with some insight when I obtained a copy of the Winter 2008 Sterling-Heights magazine (Sterling-Heights version of our Troy Today magazine). They list the property taxes paid per resident for 10 communities. Naturally, they were the lowest, but Troy was also listed. Here is how the 10 cities were ranked:

1. Dearborn	\$791
2. Southfield	\$734
3. Ann Arbor	\$709
4. Troy	\$655
5. Warren	\$594
6. Livonia	\$579
7. Farmington Hills	\$528
8. Lansing*	\$527
9. Grand Rapids*	\$453
10. Sterling Heights	\$447

* Excludes city income taxes

So you can see, we pay \$208 more tax dollars per resident than our neighbor to the East with whom we share a common border, Dequindre Rd.

So the next time you hear Phil Nelson say how little we pay per day for city services, remember that we pay 46.5% more than Sterling-Heights. Compare Sterling Fest with Troy Daze. Compare Music in the Park with Troy's Music on the Green. Compare their parks with ours. Their city services with ours. We do provide good city services, but so do other cities, sometimes at even a cheaper per resident per day cost.

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