



Agenda Cover Memorandum

Meeting Date: March 8, 2014
Meeting Type: ☒ COW (Committee of the Whole) ☐ City Council ☐ Budget Workshop
Item Title: Legal Memo on Referendum Issues

Action Requested:

☐ Approval
☒ For discussion
☐ Feedback requested
☐ For your information

Staff Contact: Wayne Zingsheim, Director of Public Works
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Background:
Attached is a memorandum from City Attorney Hill on Referendum Procedures.

Recommendation:

Budget Implications:

Does Action Require an Expenditure of Funds: ☐ Yes ☒ No

If Yes, Total Cost: \$

If Yes, is this a Budgeted Item: ☐ Yes ☐ No ☐ Requires Budget Transfer

If Budgeted, Budget Code (Fund, Dept, Object)

Attachments:

- Memorandum from City Attorney Hill

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MEMORANDUM

TO: Shawn Hamilton, City Manager
FROM: Everett M. Hill, Jr.
DATE: February 27, 2014
RE: Referendum Procedure

ADVISORY REFERENDA

The initiation and submission of all public questions to be voted upon by electors are subject to the provisions of article 28 of The Election Code (10 ILCS 5/28-1 et. seq.). Advisory questions of public policy shall be submitted to a referendum pursuant to Section 28-5 of the Illinois Election Code or pursuant to a statute that provides for such a question.

I. Purpose and Effect

A. The purpose of an advisory referendum is to solicit the opinion of voters on a question of public policy (e.g. "Shall smoking be banned in all public buildings in the City of Park Ridge?" YES/NO)

B. No legally binding effects result from the approval or rejection of an advisory question.

II. Initiation and Submission

A. An advisory referendum may be initiated as follows:

1. By petition of voters (10 ILCS 5/28-6)
2. By ordinance or resolution of the City Council (10 ILCS 5/29-6(b); 65 ILCS 5/3.1-40-60)

B. There is some question as to whether an advisory question of public policy may only be submitted to the voters of the *entire* City of Park Ridge (10 ILCS 5/29-6(a); 65 ILCS 5/3.1-40-60), or to the voters of a contiguous territory *less than* the entire City.

For purposes of this discussion, I'm assuming a City-wide referendum because any issue of a lesser area might be dealt with through the SSA.

III. Petition Requirements

A. Contents (10 ILCS 5/28-3)

1. Petitions for submission of public questions must consist of sheets of uniform size, consecutively numbered and securely bound.
2. Each petition sheet must contain, above the space for signatures, an appropriate heading that is the same for each sheet and that:
 - a. Sets forth the text of the question to be submitted to the voters.
 - b. Specifies the election at which the question is to be submitted.

B. Signatures

1. Petition must be signed by a number of registered voters who reside in the City equal to at least 8% of the total votes cast for Governor in the City in the preceding gubernatorial election (November 2, 2010 General Election).
2. Petition signers must be registered voters of the City. A registered voter means a person who is registered to vote at the address shown opposite his or her signature on the petition or was registered to vote at such address when he or she signed the petition. (10 ILCS 5/3-1.2)
3. A signer or petition must *sign* (do not print) only his or her *own* name. A person may not sign for any other person, including a spouse, children, etc.
4. Opposite the signature of each signer of the petition must be written or printed the signer's residence address, including the street address, city, county and state, except that the city, county or state of residence may be printed on the petition forms. Standard abbreviations may be used in writing the resident address, including street number. (10 ILCS 5/28-3)

C. Circulation (10 ILCS 5/28-3)

1. The circulator of a petition sheet must be at least 18 years of age and a citizen of the United States.
2. At the bottom of each sheet of a petition there must be a statement, signed by the circulator of that petition sheet, stating his or her street address and city, county and state, certifying that the signatures on that sheet were signed in his or her presence and are genuine, and that to the best of his or her knowledge and belief the persons so signing were at the time of signing the petition registered voters of the City and that their respective residences are correctly stated on the petition.

D. Notarization

The circulator of each petition sheet must personally appear before a notary public, sign the statement on the bottom of the petition sheet and have the signed affidavit notarized. (10 ILCS 5/28-3)

E. Amendment of Petition Prohibited

Except as otherwise may be provided in another statute authorizing the public question, a petition, when presented or filed, cannot be withdrawn, altered, or added to, and no signature can be revoked except by a revocation in writing presented or filed with the Board of Election Commissioners before the presentment or filing of the petition. (10 ILCS 5/28-3)

IV. *Deadlines; Certification Requirements*

- A. A petition for an advisory referendum must be filed and received not less than 92 days before a regular election. (10 ILCS 5/28-2(a))

For the March 18, 2014 general primary, the deadline for filing a petition is Monday, December 16, 2013.

For the November 4, 2014 general election, the deadline for filing a petition is Monday, August 4, 2014.

The petition shall be filed with the City Clerk.

- B. An ordinance or resolution initiating an advisory referendum must be adopted by the City Council not less than 79 days before a regular election. (10 ILCS 28-2(c))

For the March 18, 2014 general primary, the deadline for adoption is Monday, December 30, 2013 (Sunday, December 29, 2013 is the 79th day before the election – deadline moved to next business day per 10 ILCS 5/1-6.

For the November 4, 2014 general election, the deadline for adoption is Monday, August 18, 2014 (Sunday, August 17, 2014 is the 79th day before the election – deadline moved to next business day per 10 ILCS 5/1-6.

Not less than 68 days before a regular election, the City Clerk shall certify to the County Clerk any public question timely initiated by action of the City Council. (10 ILCS 5/28-5)

For the March 18, 2014 general primary, the deadline for the City Clerk's certification is Thursday, January 9, 2014.

For the November 4, 2014 general election, the deadline for the City Clerk's certification is Thursday, August 28, 2014.

The certification shall include:

- i. the form of the public question to be placed on the ballot
- ii. the date on which the public question was initiated by the adoption of a resolution or ordinance of the City Council
- iii. a certified copy of the ordinance or resolution requiring submission of the public question
- iv. specify the election at which the question is to be submitted (may not specify submission to an election more than one year, or 15 months in the case of a backdoor referendum, after the date on which it is adopted).

V. *Number of Propositions Limited: "Rule of 3"*

A. Not more than 3 questions of public policy – whether initiated by petition or voters or by City ordinance or resolution – may be submitted to citywide referendum at the same election. (10 ILCS 5/28-1)

1. Rule applies to both advisory and legally binding questions.
2. Rule does not apply to statewide or countywide referenda that may appear on the ballot in the City.

3. Rule may not apply to legally binding questions initiated pursuant to City home rule powers under Section 6, Article VII, Illinois Constitution.

B. If more than 3 questions are initiated by petition of voters or by City Council ordinance or resolution for submission to *citywide* referendum at the next regular election, then the County Clerk may certify only the first 3 validly initiated questions for that election. (10 ILCS 5/28-1)