

MUNICIPAL CORPORATIONS COMMITTEE

DATE: March 18, 2008

CALLED TO ORDER: 5:39 p.m.

ADJOURNED: 6:48 p.m.

ATTENDANCE

ATTENDING MEMBERS

Michael McQuillen, Chairman
Ed Coleman
Robert Lutz
Dane Mahern
Jackie Nytes
Cherrish Pryor

ABSENT MEMBERS

Barbara Malone

AGENDA

PROPOSAL NO. 89, 2008 - appoints Thomas Shevlot to the Indianapolis-Marion County Library Board
"Do Pass as Amended" Vote: 6-0

PRESENTATION ON INDYGO – Gilbert Holmes, President and Mike Terry, Vice President and Director of Business Development (*A tour of the facility will follow the presentation.*)

MUNICIPAL CORPORATIONS COMMITTEE

The Municipal Corporations Committee of the City-County Council met on Tuesday, March 18, 2008. Chairman Michael McQuillen called the meeting to order at 5:39 p.m. with the following members present: Ed Coleman, Robert Lutz, Dane Mahern, and Jackie Nytes. Cherrish Pryor arrived shortly thereafter. Barbara Malone was absent.

Chairman McQuillen asked the committee members to introduce themselves. Councillor Nytes said that she represents District 9. Councillor Mahern said that he represents District 18. Councillor Lutz said that he represents District 13, the far west side of Indianapolis. Councillor Coleman said that he is an At-Large Councillor, and represents the entire county. Chairman McQuillen said that he represents District 12, which is on the northeast side of Marion County.

PROPOSAL NO. 89, 2008 - appoints Thomas Shevlot to the Indianapolis-Marion County Library Board

Mr. Shevlot said that he is very honored and grateful to be a candidate for the Indianapolis-Marion County Library (IMCPL) Board. He said that he is a lifetime resident of Indianapolis, and he desires to be a part of public service. [Clerk's note: Councillor Pryor arrived at 5:41 p.m.]

Councillor Nytes asked Mr. Shevlot to share his philosophy about public libraries in the community. Mr. Shevlot said that he feels the important part about public libraries in the community goes back to its origination and purpose, which is life-long learning for social and economic growth in the community. As a member of the library, he said that it is enriching to enter the library and see so many people using the resources that the library offers. He tries to encourage others to get involved and take advantage of those opportunities. Mr. Shevlot said that he went by the Central Library before attending the meeting, which is a spectacular building. He encouraged people that have not had the opportunity to see that library to go and view the facility and the resources that it has to offer the community.

Chairman McQuillen asked Mr. Shevlot if he has any conflicts of interest that would present a problem in his ability to serve on the board. Mr. Shevlot answered in the negative.

Councillor Lutz asked Mr. Shevlot if he would have any problems attending any of the board meetings. Mr. Shevlot answered in the negative.

Councillor Nytes asked Mr. Shevlot if he is comfortable with the library receiving public or tax funds. Mr. Shevlot answered in the affirmative.

Greg Bowes, Marion County Assessor, said that the County Commissioners have appointment authority for three of seven members of the board. As one of the County Commissioners, he said that they have run across some procedural questions for the IMCPL Board. Mr. Bowes distributed a handout that contains the Indiana Constitution on one side and part of the library statute on the other side (attached as Exhibit A). He also distributed a list of the appointments that were made by the Commissioners (attached as

Exhibit B). Mr. Bowes said that a few issues about the proposal have been brought to his attention: 1) the expiration date for this particular appointee's term has been written as December 31, 2012; however, the constitutional provision states that no appointment can be longer than four years, except in the event that the appointing authority has not filled the position, in which event there is a hold-over period after the term has ended; 2) the sixty (60) day time limit after the expiration of the term is not needed in the ordinance because of the allowable hold-over period; and 3) appointees are being appointed at all times of the year with multiple expiration dates (as shown in Exhibit B). He said that a new appointee should serve out the remainder of a term that has already begun up to the allowable four years. He is asking the Council to look at the process and determine a way that the term of all appointees can end on December 31 of the year of their expiration. He said that although the statute does not specify a particular end date, he suggests December 31, because it coincides with the ending dates of the Council and the Commissioners. Mr. Bowes said that the statute also requires that the terms of the board members stagger so that no more than two people are appointed during the same year. Determining a standard end date will help to comply with this requirement. Mr. Bowes said that another issue with the proposal is that it states that the appointee shall serve at the pleasure of the Council, which is a contradiction to the statute, as it requires that the appointee be removed only for cause.

Chairman McQuillen said that he understands Mr. Bowes' concerns, and he stated that any appointments that pass out of the Municipal Corporations Committee will be pursuant to county and state law. He said that he believes it is in the best interest of the Council to have someone from the legal department look over the language in the proposal to see if there need to be any changes with regard to dates or any other technicalities.

Councillor Nytes said that she is concerned that the document has been approved by Robert Elrod, Council's General Counsel, as written. She stated that she feels that the Committee should possibly table the proposal until the next meeting when the validity of the language can be verified. Chairman McQuillen said that he spoke with Mr. Elrod before the process of seeking a new appointee began, and Mr. Elrod assured the chairman that everything was acceptable. He said that Louis Mahern, who currently holds the seat that Mr. Shevlot will tentatively be accepting, has offered to step down before his term ends. Chairman McQuillen said that he believes that this is the type of situation to which Mr. Bowes referred that causes confusion with regard to about terms beginning and ending. He said that he agrees that this is a process that should be examined; however, he does not want to hold up the process and deprive the people of Indianapolis of a representative on the IMCPL Board. He added that the technical changes of the proposal can also be addressed on the Council floor.

Councillor Pryor asked if the proposal can be amended to reflect a change in the term before it is voted on by the full Council. She said that the date should reflect that Mr. Shevlot is continuing Mr. Mahern's term, and serving for a period not to exceed four years. The current proposal reflects that Mr. Shevlot would serve a term of more than four years from the date of his appointment. She asked if the appointment could be effective for the remainder of this year, and then after the Council determines what the appropriate time frame of the appointment should be, Mr. Shevlot could return to the Committee to be

appointed for another term. Councillor Coleman asked if the appointee's term expiration could be changed to reflect the same expiration of the Council, December 31, 2011. Chairman McQuillen answered that he does not feel that the Committee should arbitrarily change the date, as it may add to the confusion with the staggering of the terms. He suggested that the Committee amend the expiration date to reflect an expiration of exactly four years from the date of his appointment. He said that he understands that Mr. Mahern's appointment is to end around April 7, 2008, and, therefore, amending the proposal to reflect that date would avoid the constitutional issue of Mr. Shevlot serving for more than a four-year period.

Councillor Mahern asked Mr. Bowes to clarify the appointment term for Kramer listed on Exhibit B. Mr. Bowes said that Ms. Kramer was appointed to serve until December 31, 2008, but he typed in 2010 because it followed what he perceived to be the pattern in all of the prior members' terms and it honored the stagger between the three members that the Commissioners appoint. He said that Councillor Pryor's suggestion of allowing Mr. Shevlot's appointment to end on December 31, 2008 would provide the opportunity for him to serve on the board while further investigation is being done with regard to the language of the ordinance and the appropriate term in relation to the staggering requirement. Chairman McQuillen said that he does not oppose future examination of all of the appointments in an effort to work with the Commissioners toward coordinating the terms to have an end date of December 31, but at this time, he would be comfortable with amending this proposal to reflect an expiration date on or around April 7, 2012.

Councillor Pryor asked if there are other boards that are affected by these same types of challenges. Mr. Bowes answered that he is not aware of any; however, he suggests that all of the board and commission appointments be examined. He added that not all boards and commissions are conducted under the same statute, and the proposals do not all contain the same language.

Councillor Lutz said that he is concerned that statute reflected on Exhibit A is confusing, because one cannot look at one section of the code and understand its intent. He said that he does not believe that the Committee should make many changes to the ordinance without consulting Mr. Elrod, so that the ordinance is not taken out of context.

Councillor Nytes suggested that the Committee move forward with the proposal by amending the date to reflect a time of no more than four years, with the understanding of the Committee and Mr. Shevlot that the Council will further investigate some of the issues that have been raised to determine a term that may comply with establishing a standardized end date for all appointees. Chairman McQuillen said that he agrees that all board and commission appointment procedures need to be further evaluated.

Councillor Pryor asked Mr. Bowes if there is an expiration date that he recommends this particular appointment serve until in order for Mr. Shevlot to be able to start serving on the board. The Council can then look into correcting some of the language of the ordinance to achieve compliance with the statute. Mr. Bowes said that he does not feel that he should make a recommendation on the Council appointment procedures, as he has not examined their processes, as he has those of the Commissioners.

Councillor Mahern said that he recommends that members of the Committee and the Council as a whole meet with the attorneys in a more structured setting to determine the best way to approach the issues with board and commission appointments.

Councillor Nytes moved, seconded by Councillor Mahern, to "Amend" Proposal No. 89, 2008 for a term ending four years from the date of the resignation of Mr. Mahern, stated as April 8, 2008. The motion carried by a vote of 6-0.

Councillor Lutz moved, seconded by Councillor Coleman, to forward Proposal No. 89, 2008 to the full Council with a "Do Pass as Amended" recommendation. The motion carried by a vote of 6-0.

PRESENTATION ON INDYGO – Gilbert Holmes, President and Mike Terry, Vice President and Director of Business Development (*A tour of the facility will follow the presentation.*)

The presentation portion of the meeting will be distributed at a later time.

There being no further business, and upon motion duly made, the meeting was adjourned at 6:48 p.m.

Respectfully Submitted,

Michael McQuillen, Chairman

MM/nsm