



## *City Manager's Bits & Pieces*

TO: St. Joseph City Commissioners

FROM: Richard I. Lewis, City Manager

A handwritten signature in black ink, appearing to be "R. Lewis", is written over the printed name of the City Manager.

DATE: November 25, 2013

Just when you think you have it all, there is additional information which needs to be conveyed.

### **Lighthouse Forever Campaign**

The Campaign Committee is off and running. They held their first meeting last Friday and former Mayor Bob Judd has agreed to chair the campaign. Attached is a two page summary of the various aspects which of course will be flushed out in the coming weeks and months. The group is very excited and optimistic.

### **Library Structure Report**

As indicated in previous Bits & Pieces, from the audit process, I had some basic questions regarding the structure to the Library. From the research conducted, I am happy to say that my questions were very much unfounded. Attached is my report (used the outline format) which I will also be sharing with the St. Joseph Charter Township and the Library Board. This was a great learning experience for me.

### **Disabled Veteran Exemption**

You may have seen the story today in **The Herald-Palladium** regarding the new state law waiving property taxes for disabled veterans. Following is a brief update from City Assessor Deb Deja:

The recent passage of State Bill 352, also known as Public Act 161 of 2013 Disabled Veteran Exemption, any veteran, or a surviving unmarried spouse, who received an

honorable discharge, may be eligible for a property tax exemption of their primary residence in the State of Michigan if certain qualifications are met.

A veteran who thinks they may be eligible needs to meet **one** of the following to be considered for the property tax exemption:

- (1) Rated by the VA with a 100% service-connected permanently and totally disabled rating
- (2) Individual Unemployability rating
- (3) Specially Adapted Housing Grant rating
- (4) Surviving spouse, not remarried, of an eligible veteran

All veterans will be screened at the County Veterans Services Office. – 701 Main St. SJ  
**Contact Lee Lull at 269-983-7111 ext 8118** for additional information and to schedule an appointment.

**The article in The Herald Palladium contained a few inaccuracies. A correction will be printed tomorrow.** (1) There must be a 100% service connected permanent and totally disabled rating or receive a rating of "Individual Unemployability". (2) The Veteran must apply annually, not every three years.

### Street Light Outage

Attached is a listing of street lights which have been submitted to Indiana-Michigan Power due to weather a little more than a week ago. Of course their priority has been to restore electricity to facilities and the repair of lines. We have been informed with these repairs completed, they will be working to repair the street lights.

### John and Dede Howard Ice Rink

The John and Dede Howard Ice Rink will be opening on Thanksgiving Day. One change is that instead of opening at 4:00pm, the rink will open at noon. Attached is a flyer, full on additional information.

Happy Thanksgiving.

# Lighthouse Forever Campaign

11.25.2013

## Honorary Chairs:

Dr. John Carter  
Merlin Hanson  
Dave Whitwam  
Marcie Schalon – pending  
Steve Upton – scheduled

## Fundraising Committee:

### Bob Judd – Chair

Rick Dyer  
Bill Hanley  
Joen Brambilla  
Bill Marohn  
Jeff Noel  
Bill Schalk  
Mike Thieneman  
Fran Chickering – City Commission liaison

## Support:

Pat Moody  
Christine Vanlandingham  
Amy White  
Gary Tipton  
Patrick Bosse  
Jill Stone  
Amy Zapal  
Christina Hirn Arseneau  
Lisa Cripps-Downey  
Deb Korocho  
Susan Solon  
Richard Lewis

## Sub-committees:

### Marketing:

Bill Schalk  
Susan Solon - staff  
Patrick Bosse  
Pat Moody

### Campaign Structure:

Joen Brambilla  
Bill Hanley  
Richard Lewis - staff  
Deb Korocho - staff  
Christine Vanlandingham  
Amy White  
David Burghart  
Bill Johnson

### Large & Corporate Donor:\*

Rick Dyer  
Jeff Noel  
Mike Thieneman

### Small Donor:\*

\*Small Donor and Large & Corporate Donor sub-committees to be further populated after the Marketing and Campaign Structure sub-committees complete their task.

## Why

The St. Joseph Lighthouse is now owned by the City of St. Joseph. This venerable icon has been visited by countless thousands over the years and has undoubtedly been the most photographed subject in our community. It has appeared on a U.S. Postal Service stamp, in travel magazines, websites, social media, television, books, paintings, videos, t-shirts, children's drawings and coloring books. It is even the dominant feature on the City of St. Joseph logo. **It's more than just a part of St. Joseph ... it says St. Joseph.**

Throughout the years the lighthouse has guided both pleasure and commercial vessels home to safety during legendary Great Lake storms. It has stood strong against the relentless pounding of wind and water for over one hundred years. But the forces of nature have taken their toll. It is in immediate need of repair and renovation. Now is the time for us to give back to the old St. Joseph Light in repayment for all she has given us.

## Financial

City of St. Joseph Lighthouse Forever Fund	\$28,338.25
Berrien Community Foundation Lighthouse Fund	<u>18,906.89</u>
	\$47,245.14
Cost to date:	
Environmental Assessment	\$ 9,145.00
Sign	600.00

## Estimated Cost of Renovations

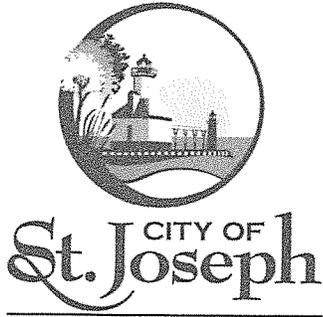
Based on 2015 Construction

Historic Structure Report	\$ 40,000
Phase 1, Critical Work	560,700
Phase 2, Serious Work	421,000
Phase 3, Minor Work	754,000
Campaign Cost	<u>99,875</u>
Total	\$1,885,775

Unknowns:

Cost of additional systems such as electrical

Cost of safety features once lighthouses are open to public



## LIBRARY STRUCTURE

- A. Purpose
1. Question during annual audit - why the Library wasn't considered component unit.
  2. No clear answer on file as to independent nature of Library Board.
  3. To have something in the file for future reference.
- B. Establishment
1. City Charter (1928) and Act 164 of 1877, Section 397.201
  2. Three prime charter provisions:
    - a. Chapter 3, Section 34 - There is hereby created a Library Board of five members who shall be appointed by the Commission and shall be electors of the City of St. Joseph. One member of such Board shall be appointed for the period of one year; two members of such Board shall be appointed for a period of two years, and two members shall be appointed for the period of three years. Thereafter members of the Library Board shall be appointed for the period of three years. As preceding terms expire or as vacancies occur. Such Board shall have full charge full charge of any and all public libraries in the City of St. Joseph and shall have power to employ librarians and other persons deemed necessary to operate said libraries; also shall have full power to expend as they deem best all the moneys appropriated for library use; any may make such rules and regulations as they deem best and proper relative to the conduct of any such library and to the conduct of any persons within such library.
    - b. Chapter 9, Section 14 - The Commission shall raise each year, in addition to the general tax a sum not exceeding eight-tenths of a mill nor less than five-tenths of a mill per dollar of assessed valuation of the City of St. Joseph for library purposes; provided, however, that not less than eight-tenths of one mill per dollar of the assessed valuation shall be raised for the years 1929 and 1930 respectively.
    - c. Chapter 16, Section 7 - The Commission shall appoint one member to the Library Board whose term of office expires May 1, 1929; two members whose terms expire May 1, 1930, and two members whose terms expire May 1, 1931, and thereafter, on or before May 1st of each year, Library Board members shall be appointed on the first day of the following May to serve for a period of three years.
  3. Legal Opinion of August 1999 requested by City Manager highlights:

- a. The Library was created and exists... pursuant to the City Charter and pursuant to Act 164 of the Public Acts of Michigan of 1877, as amended, MCLA 397.201 et seq.
- b. Neither the City's nor the Township's millage is a voted millage although the City's millage levy is consistent with the City Charter which was approved by the voters.
- c. Section 5 of Act 164, MCLA 397.205, states, in pertinent part, with reference to the board of directors of a library created and existing under that statute:
 

"State directors shall ... make and adopt such by-laws, rules, and regulation for their own guidance and for government of the library and reading room, as may be expedient, not inconsistent with this act. They shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund, of the construction of any library building, and, of the supervision, care, and custody of the ground, rooms, or buildings constructed, leased, or set apart for that purpose ... Said board shall have power to purchase or lease grounds, to occupy, lease, or erect an appropriate buildings or buildings for the use of said library; shall have power to appoint a suitable librarian and necessary assistants, and fix their compensation; and shall also have power to remove such appointees; and shall, in general, carry out the spirit and intent of this act in establishing and maintaining a public library and reading room."
- d. Section 14, MCLA 397.214, permits a municipality to contract to provide library services to another municipality even if there are charter provisions to the contrary and permits the parties to set the terms and conditions for those services by contract.
- e. ... that the Library itself was established pursuant to Act 164 and that, to the extent there is any conflict between any provision of Act 164 and any City Charter provision, the terms of Act 164 would govern.
- f. Indeed, if the city charter establishes an independent library board as provided in Act 164, a city may not even impose upon library employee's terms of employment generally applicable to all city employees...

C. Property and facilities:

1. Land - Lahr property purchase in Nov. 1964 for \$70,000 and Brown property donated in Dec. 1968 both for the purpose of a library. Properties were acquired or given to the City.
2. Building - \$225,000 gift from Fred Palenske in Oct. 1964 to construct and furnish a library building and \$175,000 from Fred Palenske Estate in Sept. 1970 to defray a part or all of the cost of constructing, equipping and furnishing an addition. Both gifts were given to the City.

D. Agreement for Library Services with St. Joseph Charter Township

1. Authorized by MCLA 397.213 and 397.214
2. First Agreement December 4, 1981.
3. Current Agreement for Library Service dated February 14, 2005. Agreement will automatically renew for an additional three years in February 2014. Agreement can be terminated by either party with six month notice.

4. Primary funding for the Library comes from the City library tax millage, Township's contribution, and penal fines. Only limitation is that Township's total contribution (including penal shall not exceed 48%.
5. Fiscal Year ending June 30, 2013:

	City	Township
Taxes	\$292,362.64	
Contribution		\$174,999.96
Penal Fines	<u>67,658.01</u>	<u>80,911.07</u>
Total	\$360,020.65	\$255,911.03
Percentage	58.5%	41.5%
Per Household	3,933 - \$91.54	4,094 - \$62.51
Per Family	1,941 - \$185.48	2,947 - \$86.84
Per Population	8,365 - \$43.04	10,042 - \$25.48

Household, Family and Population figures are derived from the U.S. Census data.

E. Conclusions:

1. Board size. The Library Board consists of nine members, five appointed by the City per the City Charter and four members appointed by the Township per the Agreement for Library Service. If the Agreement were to be terminated, then the Board would consist of only the five members appointed by the City. The Board is considered to be a Joint Library Board as defined under MCLA 397.215. The City is not responsible for keeping up with the appointments made by the Township.
2. Per MCLA 397.205 the Library Board is responsible for the care and maintenance of the grounds and facilities with the funds provided. The City could provide additional general fund moneys. If the Library Board feels structural repairs of the building is beyond the funding capability of the Board, i.e. roof repairs, then a request should submitted.
3. The Agreement for Library Service is a negotiated agreement between the City and Township. If the Library Board believes there should be changes to the agreement, recommendations should be submitted to the City and/or Township for consideration.

Attachments:

City Charter excerpts

Act 164 of 1877

Legal Opinion request and response

Agreement for Library Services

Prepared by: City Manager Richard I. Lewis  
November 25, 2013

appurtenances thereof, and shall perform such other duties as the Commission may from time to time prescribe. They shall direct the improvements and embellishments of the grounds and cause such grounds to be laid out into lots, avenues and walks: such Board shall take, receive and hold and manage any and all property which may be granted, transferred or devised to such Board in trust for the purpose of caring for and keeping in good order and repair any given lot or lots, or portions thereof, specified in such trust. Said Cemetery Board shall have power to appoint the necessary Superintendents and employees for the cemetery, and shall direct the expenditure of all moneys provided for the cemetery, and shall make such regulations relative to burial and any other matters pertaining to the cemetery as such Board shall deem proper.

**State law reference**—Cemeteries, MCL 128.1 et seq.

**Section 34. Library board.**

There is hereby created a Library Board of five members who shall be appointed by the Commission and shall be electors of the City of St. Joseph. One member of such Board shall be appointed for the period of one year; two members of such Board shall be appointed for the period of two years, and two members of such Board shall be appointed for the period of three years. Thereafter members of the Library Board shall be appointed for the period of three years, as preceding terms expire or as vacancies occur. Such Board shall have full charge of any and all public libraries in the City of St. Joseph and shall have power to employ librarians and other persons deemed necessary to operate said libraries; also shall have full power to expend as they deem best all the moneys appropriated for library use; and may make such rules and regulations as they deem best and proper relative to the conduct of any such library and to the conduct of any persons within such library.

**State law reference**—Libraries generally, MCL 397.201 et seq.

**Section 35. Purchasing agent.**

The Commission shall appoint a purchasing agent and prescribe the duties and the rules and regulations relative thereto.

**Section 36. Purchases.**

No purchase shall be made except on a requisition by the head of a Department, countersigned by the Manager, and approved by the Director of Finance. No purchase shall be made in excess of appropriations.

**Section 37. City auditor.**

The Commission shall appoint a City Auditor and prescribe his duties. At the end of each fiscal year, or oftener if necessary, the City Commission shall cause a full and complete

CHAPTER  
3

**Section 12. Tax charges and penalties as lien on property.**

All city tax charges and penalties, other than special assessments, which the Commission orders spread upon any tax roll shall become a lien on the property assessed on the first day of July and special assessments shall become a lien upon the day they are ratified, confirmed and ordered spread as hereinafter provided.

**Section 13. Limitations on total tax levy.**

The aggregate amount which the Commission may raise by general tax upon the taxable real and personal property of the City for the purpose of defraying the general expenses and the liabilities of the corporation (including any tax levied for library purposes), shall not exceed, in any one year, two percent (20 mills), except as provided by law, of the assessed value of all real and personal property in the City.

(Amd. by electors on 4-5-76)

**State law reference**—Limit on taxation, MCL 117.5(a). See also Mich. Const. 1963, Art. VII, § 21.

**Section 14. Millage for library purposes.**

The Commission shall raise each year, in addition to the general tax, a sum not exceeding eight-tenths of a mill nor less than five-tenths of a mill per dollar of assessed valuation of the City of St. Joseph for library purposes; provided, however, that not less than eight-tenths of one mill per dollar of the assessed valuation shall be raised for the years 1929 and 1930 respectively.

**Section 15. Additional tax permitted.**

In addition to the aforesaid general tax limit of Section 13 the Commission may raise by tax:

- (a) Such sum, not exceeding the limit therefor fixed by State law, as may be necessary to defray the cost of collection and disposal of garbage and rubbish, whether such collection and disposal be accomplished by contract or by the City direct.
- (b) Not exceeding 6-10 of one mill for the maintenance and employment, under municipal control, of a band for musical purposes for the benefit of the public.
- (c) Such additional sum, if any, not exceeding the statutory limit, as may be authorized by State law, either present or future, the same to be levied and spread within the limits and conditions and by the methods and for such other purpose or purposes as may be provided by State law.
- (d) Such additional sum, not exceeding any statutory limit, that is or may be necessary to defray the cost of acquisition, (including cost of lands) construction, installation, equipment, maintenance and operation of a sewage disposal plant or plants and

**Section 4. First justices of the peace.**

The present Justices of the peace shall continue in office for the remainder of the term for which they were elected, one until July 4, 1930 and the other until July 4, 1932.

**Editor's note**—Justices of the peace were abolished in Charter Chapter III, Section 11.

**Section 5. Continuation of mayor and aldermen in office; commission as successors.**

The Mayor and Aldermen in office when this Charter shall take effect shall continue as such until Wednesday, September 12, 1928, on which day the Mayor and Aldermen shall convene at the Council Room in the City Hall in said City at 8 o'clock p.m. and dispose of any unfinished business then pending and ready, and shall conclude such business and adjourn sine die by 9 o'clock p.m.

The Commission first elected under this Charter, and their successors in office, shall be held and deemed in law and in fact the successors of the Mayor and Aldermen in office, from and after the hour fixed for adjournment of said Council on September 12, 1928, as aforesaid, and thereupon all the powers, rights and duties of the Mayor and Aldermen in office shall cease and such Commission shall have and exercise all the rights, powers and duties of such Mayor and Aldermen as may be conferred by the Constitution and laws of this State and by this Charter.

**Section 6. Cemetery board.**

The Commission shall appoint one member of the Cemetery Board whose term of office expires May 1, 1929; one member whose term of office expires May 1, 1930, and one member whose term of office expires May 1, 1931, and thereafter, before May 1st each year, a member shall be appointed for a period of three years commencing the following May 1st.

**Section 7. Library board.**

The Commission shall appoint one member to the Library Board whose term of office expires May 1, 1929; two members whose terms expire May 1, 1930, and two members whose terms expire May 1, 1931, and thereafter, on or before May 1st of each year, Library Board members shall be appointed on the first day of the following May to serve for a period of three years.

**CHAPTER XVII. INTERPRETATIONS**

**Section 1. Tense; gender.**

Words imparting the singular number, only, may extend to and embrace the plural number, and words imparting the plural number may be applied and limited to the singular number; words imparting the masculine gender only, may extend and be applied to females as well as males.

**CITY, VILLAGE, AND TOWNSHIP LIBRARIES**  
**Act 164 of 1877**

AN ACT to authorize cities, incorporated villages, and townships to establish and maintain, or contract for the use of, free public libraries and reading rooms; and to prescribe penalties and provide remedies.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—Am. 1984, Act 128, Imd. Eff. June 1, 1984;—Am. 1998, Act 177, Eff. Mar. 23, 1999.

*The People of the State of Michigan enact:*

**397.201 Public library and reading room; establishment and maintenance by city council; tax levy; library fund; tax additional to tax limitation.**

Sec. 1. (1) The city council of each incorporated city may establish and maintain a public library and reading room for the use and benefit of the inhabitants of the city. The city council may levy a tax of not to exceed 1 mill on the dollar annually on all the taxable property in the city. If approved by a majority of the voters voting on the proposal at the regular annual election, the city council may increase the tax levied by not to exceed 1 additional mill on the dollar annually on all the taxable property in the city. The tax shall be levied and collected in the same manner as other general taxes of the city, and shall be deposited in a fund to be known as the "library fund."

(2) The tax levied under this section shall be in addition to any tax limitation imposed by a city charter.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—How. 5175;—CL 1897, 3449;—CL 1915, 3431;—CL 1929, 8059;—CL 1948, 397.201;—Am. 1986, Act 133, Imd. Eff. June 16, 1986.

**397.202 Board of directors; members; qualifications; number; terms.**

Sec. 2. (1) If a city council decides to establish and maintain a public library and reading room under this act, the mayor of that city shall, with the approval of the city council, appoint a board of 5 directors for the library and reading room, chosen from the citizens at large, with reference to their fitness for that office. Not more than 1 member of the city council shall be at any 1 time a member of the board.

(2) If a city council decides, after the first appointments of the board of directors as provided in subsection (1), that the purposes of the library and reading room would be better served by a different number of members on the appointed board of directors, the city council may by ordinance change the number of members to an odd number not less than 5 or more than 9.

(3) The term of office for each member of the appointed board of directors may be changed by ordinance to a term of not less than 2 years or more than 5 years.

(4) Notwithstanding the provisions of section 3, if the term of office is changed by ordinance by a city council, the term of office for subsequent appointments by the mayor shall be the same as prescribed by the ordinance.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—How. 5176;—CL 1897, 3450;—CL 1915, 3432;—CL 1929, 8060;—Am. 1931, Act 248, Eff. Sept. 18, 1931;—CL 1948, 397.202;—Am. 2000, Act 99, Imd. Eff. May 19, 2000.

**397.203 Board of directors; appointment, terms, removal.**

Sec. 3. The offices of boards of directors heretofore appointed under this act, consisting of 9 members, are hereby declared vacant on July 1, 1932, and a board of 5 directors to succeed them or a board of directors of 5 members for a library newly established hereunder shall be first appointed as follows: 1 director shall be appointed for a term of 5 years, 1 director shall be appointed for a term of 4 years, 1 director shall be appointed for a term of 3 years, 1 director shall be appointed for a term of 2 years, 1 director shall be appointed for a term of 1 year, and annually thereafter the mayor shall appoint 1 member of such board of directors for a term of 5 years. The mayor may, by and with the consent of the city council, remove any director for misconduct or neglect of duty.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—How. 5177;—CL 1897, 3451;—CL 1915, 3433;—CL 1929, 8061;—Am. 1931, Act 248, Eff. Sept. 18, 1931;—CL 1948, 397.203.

**397.204 Board of directors; vacancies, compensation.**

Sec. 4. Vacancies in the board of directors occasioned by removals, resignation or otherwise, shall be reported to the city council, and be filled in like manner as original appointments, and no director shall receive compensation as such.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—How. 5178;—CL 1897, 3452;—CL 1915, 3434;—CL 1929, 8062;—CL 1948, 397.204

**Compiler's note:** The word "occasioned" in this section evidently should read "occasional."

**397.205 Board of directors; officers, powers and duties; library fund, expenditures, accounting.**

Sec. 5. Said directors shall, immediately after appointment, meet and organize, by the election of 1 of their number president, and by the election of such other officers as they may deem necessary. They shall make and adopt such by-laws, rules, and regulations for their own guidance and for the government of the library and reading room, as may be expedient, not inconsistent with this act. They shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund, and of the construction of any library building, and of the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose: Provided, That all moneys received for such library shall be deposited in the treasury of said city to the credit of the library fund, and shall be kept separate and apart from other moneys of such city, and drawn upon by the proper officers of said city, upon the properly authenticated vouchers of the library board. Said board shall have power to purchase or lease grounds, to occupy, lease, or erect an appropriate building or buildings for the use of said library; shall have power to appoint a suitable librarian and necessary assistants, and fix their compensation; and shall also have power to remove such appointees; and shall, in general, carry out the spirit and intent of this act in establishing and maintaining a public library and reading room.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—How. 5179;—CL 1897, 3453;—CL 1915, 3435;—CL 1929, 8063;—CL 1948, 397.205

**397.206 City library; free use; regulations.**

Sec. 6. Every library and reading room established under this act shall be forever free to the use of the inhabitants where located, always subject to such reasonable rules and regulations as the library board may adopt; and said board may exclude from the use of said library and reading room any and all persons who shall wilfully violate such rules.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—How. 5180;—CL 1897, 3454;—CL 1915, 3436;—CL 1929, 8064;—CL 1948, 397.206

**397.207 Board of directors; annual report, contents.**

Sec. 7. The said board of directors shall make, at the end of each and every year from and after the organization of such library, a report to the city council, stating the condition of their trust at the date of such report the various sums of money received from the library fund and from other sources, and how such moneys have been expended, and for what purposes; the number of books and periodicals on hand; the number added by purchase, gift, or otherwise during the year; the number lost or missing; the number of visitors attending; the number of books loaned out, and the general character and kind of such books, with such other statistics, information, and suggestions as they may deem of general interest. All such portions of said report as relate to the receipt and expenditure of money, as well as the number of books on hand, books lost or missing, and books purchased, shall be verified by affidavit.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—How. 5181;—CL 1897, 3455;—CL 1915, 3437;—CL 1929, 8065;—CL 1948, 397.207

**397.208 City library; injury to property, ordinances, penalties.**

Sec. 8. The city council of said city shall have power to pass ordinances imposing suitable penalties for the punishment of persons committing injury upon such library, or the grounds or other property thereof, or for wilful injury to or failure to return any book belonging to such library.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—How. 5182;—CL 1897, 3456;—CL 1915, 3438;—CL 1929, 8066;—CL 1948, 397.208

**397.209 City library; donations, acceptance.**

\* Sec. 9. Any person desiring to make donations of money, personal property, or real estate for the benefit of such library, shall have the right to vest the title to money or real estate so donated in the board of directors created under this act, to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devise, or bequest of such property; and as to such property, the said board shall be held and considered to be special trustees.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—How. 5183;—CL 1897, 3457;—CL 1915, 3439;—CL 1929, 8067;—CL 1948, 397.209

**397.210 Free public library in village or township; petition to levy tax for establishment; notice of election; library fund; board of directors; estimate of money necessary for**

**support and maintenance of library; report; assessment and collection of tax; powers of corporate authorities; library as authority under state constitution.**

Sec. 10. (1) Fifty voters of an incorporated village or township may present to the clerk of the village or township a petition asking that a tax be levied for the establishment of a free public library in the village or township and specifying the rate of taxation, not to exceed 2 mills on the dollar. The tax may be of unlimited duration or the petition may specify the number of years for which the tax shall be levied. The clerk, in the next legal notice of the regular election in that village or township, shall give notice that at the election every voter may vote on the proposition including the rate and any duration of taxation for the free public library.

(2) If the majority of all the votes cast in the village or township is for the tax for a free public library, the tax specified in the notice shall be levied and collected in the same manner as other general taxes of that village or township for the period, if any, specified in the petition, and shall be placed in a fund known as the library fund.

(3) If a free public library is established and a board of directors elected and qualified, that board of directors, on or before the first Monday of September in each year, if the free public library is established by a township, and on or before the second Monday in April, if the free public library is established by an incorporated village, shall prepare an estimate of the amount of money necessary for the support and maintenance of the library for the ensuing year, not exceeding 2 mills on the dollar of the taxable property of the village or township. Unless any period specified in the petition for the levy of the tax has expired, the board of directors shall report the estimate to the assessor of the village or the supervisor of the township for assessment and collection in the same manner as other village or township taxes. The tax shall be so assessed and collected. The corporate authorities of the villages or townships may exercise the same powers conferred upon the corporate authorities of cities under this act.

(4) A library established under this section constitutes an authority under section 6 of article IX of the state constitution of 1963.

*History:* 1877, Act 164, Eff. Aug. 21, 1877;—How. 5184;—Am. 1885, Act 36, Eff. Sept. 19, 1885;—CL 1897, 3458;—Am. 1907, Act 42, Imd. Eff. Apr. 11, 1907;—CL 1915, 3440;—CL 1929, 8068;—CL 1948, 397.210;—Am. 1986, Act 133, Imd. Eff. June 16, 1986;—Am. 1994, Act 81, Imd. Eff. Apr. 11, 1994.

**397.210a Free public library in city; establishment; petition for tax; notice; form of ballot; library fund; preparing and reporting estimate of money necessary for support and maintenance; tax additional to tax limitation.**

Sec. 10a. (1) Fifty voters of a city may present to the clerk of the city a petition asking that a tax be levied for the establishment of a free public library in that city and specifying a rate of taxation not to exceed 2 mills on the dollar. The tax may be of unlimited duration or the petition may specify the number of years for which the tax shall be levied. The clerk, in the next legal notice of the regular election in that city, shall give notice that at the election every voter may vote upon the proposition. The notice shall specify the rate and any duration of taxation mentioned in the petition.

(2) If a majority of all the votes cast in the city upon the proposition is for the tax for a free public library, the tax specified in the notice shall be levied and collected in the same manner as other general taxes of that city for the period, if any, specified in the petition, and shall be placed in a fund to be known as the "library fund".

(3) If the free public library is established under this section, and a board of directors elected and qualified as provided in section 11, the board of directors on or before the first Monday in September in each year shall prepare an estimate of the amount of money necessary for the support and maintenance of the free public library for the ensuing year, not exceeding 2 mills on the dollar of the taxable property of the city. Unless any period specified in the petition for the levy of the tax has expired, the board of directors shall report the estimate to the legislative body of the city. The legislative body shall cause to be raised by tax upon the taxable property in the city the amount of the estimate in the same manner that other general taxes are raised in the city.

(4) A tax levied under this section shall be in addition to any tax limitation imposed by a city charter.

*History:* Add. 1911, Act 178, Eff. Aug. 1, 1911;—CL 1915, 3441;—CL 1929, 8069;—Am. 1931, Act 248, Eff. Sept. 18, 1931;—CL 1948, 397.210a;—Am. 1980, Act 521, Eff. Mar. 31, 1981;—Am. 1986, Act 133, Imd. Eff. June 16, 1986;—Am. 1994, Act 81, Imd. Eff. Apr. 11, 1994.

**397.210b Free public library established in township or village incorporated as city; continuation of library board, library, and tax.**

Sec. 10b. If a township or village in which a free public library has been established pursuant to section 10 is incorporated in its entirety as a city, the library board of the free public library shall continue in office and

the free public library shall continue in existence and be governed by the provisions of section 10a as if the free public library had originally been established as a free public library under section 10a. Any tax previously authorized pursuant to this act for the support of the free public library shall continue in effect after the incorporation and shall then be assessed and collected on the taxable property in the city as provided in section 10a.

**History:** Add. 1982, Act 286, Imd. Eff. Oct. 7, 1982.

### **397.210c Increasing library millage; ballot; election; validation of millage renewal.**

Sec. 10c. (1) If a city, village, or township has voted on, approved, and established a library pursuant to this act and the library board of directors by resolution determines that the estimate of the amount of money necessary for the support and maintenance of the library exceeds the previously authorized millage or that, if the previously authorized millage was approved for a specific number of years, the millage should be renewed, the question of increasing the library millage to not more than 2 mills or of renewing the millage shall be placed on the ballot for approval at the next regular annual election for that city, village, or township or at a special election for that city, village, or township. The increase or renewal may be of unlimited duration or the question may specify the number of years for which the increase or renewal shall be levied. The costs of a special election shall be paid from the library fund.

(2) If, before the effective date of the amendatory act that added this subsection, a library millage was renewed in the manner provided by subsection (1), that millage renewal is hereby validated.

**History:** Add. 1986, Act 133, Imd. Eff. June 16, 1986;—Am. 1994, Act 81, Imd. Eff. Apr. 11, 1994.

### **397.211 Library board of city, village, or township; establishment; provisional or permanent; director; vacancy; powers of library board.**

Sec. 11. (1) Immediately after a city, a village, or a township has voted to establish a free public library, a library board shall be established by the city, village, or township as prescribed in subsections (3) and (4).

(2) If a city, village, or township has a free public library which has not elected a library board, including a city library and board of directors established under sections 1 to 10, the city, village, or township shall establish a library board as prescribed in subsections (3) and (4).

(3) The legislative body of a city, village, or township described in subsection (1) or (2) shall appoint a provisional library board of 6 directors who shall hold office until the next annual or biennial city or village election, or township election, of a permanent library board.

(4) A permanent library board shall be established for a city, village, or township described in subsection (1) or (2) as follows:

(a) In a city or village holding an annual election, 6 directors shall be elected. The terms of 2 of the directors shall be 1 year; the terms of 2 of the directors shall be 2 years; and the terms of 2 of the directors shall be 3 years. Each year thereafter, 2 directors shall be elected for 3-year terms.

(b) In a city or village that holds biennial elections, 6 directors shall be elected. The terms of 2 of the directors shall be 2 years; the terms of 2 of the directors shall be 4 years; and the terms of 2 of the directors shall be 6 years. Biennially thereafter, 2 directors shall be elected for 6-year terms.

(c) In a township holding elections for township officers every 4 years, 6 directors shall be elected for 4-year terms at the primary and general elections in 1984. A term of office shall not be shortened by this subdivision. A director scheduled by this section before March 31, 1981, to be elected at a time other than 1984 shall not be elected on the date scheduled, but shall continue in office until a successor takes office pursuant to the election of 1984.

(d) The directors shall be nominated and elected on nonpartisan ballots. A candidate for city, village, or township library director shall file nonpartisan nominating petitions bearing the signatures of a number of registered and qualified electors of that city, village, or township as follows:

(i) For a city, village, or township having a population of 9,999 or less, not less than 6 or more than 20 signatures.

(ii) For a city, village, or township having a population of 10,000 or more, not less than 40 or more than 100 signatures.

(e) In lieu of the nominating petitions prescribed in subdivision (d), an individual may file with the clerk conducting an election a \$100.00 nonrefundable fee to have his or her name placed on the ballot.

(f) The Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, shall govern the circulation and filing of nonpartisan nominating petitions and the conduct of nonpartisan elections under this section.

(5) A director shall hold office until a successor is elected and qualified.

(6) A library board shall fill a vacancy in a directorship by appointment of a person to hold office until the next election.

(7) A provisional or permanent library board has the powers prescribed in section 5.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—How. 5185;—CL 1897, 3459;—Am. 1905, Act 67, Eff. Sept. 16, 1905;—CL 1915, 3442;—CL 1929, 8070;—Am. 1931, Act 248, Eff. Sept. 18, 1931;—Am. 1945, Act 60, Imd. Eff. Mar. 28, 1945;—CL 1948, 397.211;—Am. 1978, Act 130, Imd. Eff. May 4, 1978;—Am. 1980, Act 114, Imd. Eff. May 14, 1980;—Am. 1980, Act 521, Eff. Mar. 31, 1981;—Am. 1984, Act 138, Imd. Eff. June 1, 1984;—Am. 1988, Act 432, Imd. Eff. Dec. 27, 1988;—Am. 2002, Act 160, Eff. Jan. 1, 2003.

**397.211a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 11a. A petition under section 10, 10a, or 11, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 177, Eff. Mar. 23, 1999.

**397.212 Applicability of MCL 397.210a and 397.211; exception; organization of existing public library under MCL 397.210a.**

Sec. 12. Except as otherwise provided in section 10b, sections 10a and 11 do not apply to a city, village, or township maintaining a public library under a special act or to a public library contained in the 1979 statement prepared by the state board for libraries pursuant to section 8 of Act No. 59 of the Public Acts of 1964, being section 397.38 of the Michigan Compiled Laws. However, an existing public library may, by petition, be organized under section 10a regardless of the library's original organization.

**History:** 1877, Act 164, Eff. Aug. 21, 1877;—How. 5186;—CL 1897, 3460;—CL 1915, 3443;—CL 1929, 8071;—CL 1948, 397.212;—Am. 1978, Act 130, Imd. Eff. May 4, 1978;—Am. 1980, Act 521, Eff. Mar. 31, 1981;—Am. 1982, Act 286, Imd. Eff. Oct. 7, 1982.

**397.213 Use of library services by adjacent township, village, or city; contract; payment.**

Sec. 13. (1) Notwithstanding a contrary city, village, or township charter provision, a township, village, or city adjacent to a township, village, or city that supports a free public circulating library and reading room under this act may contract for the use of library services with that adjacent township, village, or city.

(2) A township, city, or village may pay for the use of library services contracted for under subsection (1) by levying a tax not to exceed 2 mills of its state equalized valuation, by use of money from the municipality's general fund, or with money received under Act No. 59 of the Public Acts of 1964, being sections 397.31 to 397.40 of the Michigan Compiled Laws. A tax shall not be levied or increased under this section unless a majority of the electors of the municipality voting on the question vote in favor of the tax.

**History:** Add. 1903, Act 19, Eff. Sept. 17, 1903;—CL 1915, 3444;—CL 1929, 8072;—CL 1948, 397.213;—Am. 1984, Act 128, Imd. Eff. June 1, 1984;—Am. 1987, Act 216, Imd. Eff. Dec. 22, 1987.

**397.214 Contract with township, city, or village for use of library and reading room; procedure; tax levy; library fund.**

Sec. 14. (1) Upon receipt of a petition signed by not less than 10% of the electors in any township based on the highest vote cast at the last regular election for township officers of the township, addressed to the township board, requesting that a meeting be called of the electors in the township, to consider making a contract with any township, city, or village supporting and maintaining a free public circulating library and reading room under this act, or under any special act, for the use of its privileges by the residents of the township, the township board shall call a meeting of the electors of the township by posting notices in at least 5 public places within the township not less than 10 days before the meeting. The electors present at the meeting shall determine whether the township shall enter into a contract for the use of a free public circulating library and reading room in any township, city, or village and the rate of taxation to be levied for the purpose of paying for that use if the electors decide to enter into such a contract. However, a tax so levied shall not exceed 1 mill of the state equalized valuation of the township. If a majority of those present and voting are in favor of the township contracting for the use of a free public circulating library and reading room maintained in any township, city, or village, the township board may enter into a contract and shall levy and collect the tax provided for in this subsection, which tax when collected shall be placed in a fund to be known as the "library fund". The money in the library fund shall be paid over by the township treasurer to the treasurer of the township, city, or village in which the library is located, on the first day of January, February, and March of each year, to be disbursed subject to the provisions of section 5. This subsection is not a limitation on the contractual power of a legislative body of a city, village, or township under section 13.

(2) Notwithstanding any contrary provision in a township, city, or village charter, the library board of directors of a township, city, or village supporting and maintaining a free public circulating library and

reading room under this act, or under any special act, may enter into a contract with another township, city, or village to permit the residents of that other township, city, or village the full use of the library and reading room, upon terms and conditions to be agreed upon between the library board of directors and the legislative body of the other township, city, or village. A contract entered into pursuant to this subsection shall be executed for a term of 3 years, shall be automatically extended for an indefinite term after the initial 3-year period, and shall be terminable by either party only on the giving of 6 months' notice of the intent to terminate the contract.

**History:** Add. 1903, Act 19, Eff. Sept. 17, 1903;—Am. 1911, Act 272, Eff. Aug. 1, 1911;—CL 1915, 3445;—CL 1929, 8073;—Am. 1931, Act 248, Eff. Sept. 18, 1931;—CL 1948, 397.214;—Am. 1984, Act 128, Imd. Eff. June 1, 1984.

### **397.215 Contract for use of library services by county; joint library board; number of directors; provisions of contract; vacancies; removal of director; vacating offices of directors; powers and duties of joint library board.**

Sec. 15. (1) In a county which does not have a county library established under Act No. 138 of the Public Acts of 1917, being sections 397.301 to 397.305 of the Michigan Compiled Laws, or counties in which the population exceeds 1,000,000, a contract for use of library services under section 13 may provide for joint representation on the library board of directors. A joint library board shall not have more than 9 directors.

(2) A contract for use of library services that provides for joint representation may provide that a director serving on a library board on the day before the establishment of a joint library board shall become a director of the joint library board and shall serve out the balance of his or her unexpired term.

(3) A contract for the use of library services shall specify all of the following:

(a) Whether those directors added to an existing library board to create a joint library board are elected or appointed.

(b) The method of election or appointment of those directors added to an existing library board to create a joint library board.

(c) Lengths of terms of office of those directors added to an existing library board to create a joint library board. The terms of the added directors shall be staggered. If a contract establishing a joint library board is terminated, the terms of all added directors shall end on the date of termination.

(d) The method of removal of, and the causes upon which removal may be based for, a director added to an existing library board to create a joint library board.

(e) The method of filling a vacancy in the office of a director added to an existing library board to create a joint library board. A vacancy shall be filled for the balance of the unexpired term.

(f) Any other provision which is considered necessary or advisable.

(4) Selection, length of terms, manner of filling vacancies, and removal of the directors of the existing library board who become directors on the joint library board shall continue to be governed by state law or by the township, city, or village charter.

(5) If a contract for use of library services that provides for joint representation does not provide that directors on the existing board become directors on the joint library board, the offices of the directors of the existing board shall be vacated on the date the joint board assumes jurisdiction and the contract shall include those provisions required by subsection (3) which shall apply to the entire joint library board.

(6) A joint library board established under this section has the same powers and duties as a city library board under sections 5 to 7.

**History:** Add. 1984, Act 128, Imd. Eff. June 1, 1984.

### **397.216 Rights in use and benefits of library; uniform rules and regulations.**

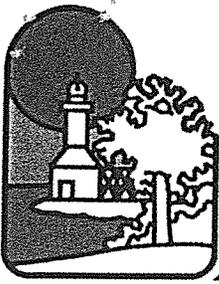
Sec. 16. After fulfilling the contractual requirements, the people of a township, village, or city which has contracted for library services with another township, village, or city shall have all rights in the use and benefits of the library that they would have if they lived in the township, village, or city where the library is established, subject to uniform rules and regulations established by the board of library directors.

**History:** Add. 1903, Act 19, Eff. Sept. 17, 1903;—CL 1915, 3446;—CL 1929, 8074;—CL 1948, 397.216;—Am. 1984, Act 128, Imd. Eff. June 1, 1984.

### **397.217 Joint municipal libraries; villages and cities.**

Sec. 17. The people of villages may join with townships, or townships with villages, or either with cities, by complying with similar provisions, as aforesaid in this act, and as amended, for the purpose of maintaining, supporting and receiving the benefits from a free public circulating library.

**History:** Add. 1903, Act 19, Eff. Sept. 17, 1903;—CL 1915, 3447;—CL 1929, 8075;—CL 1948, 397.217.



# City of St. Joseph

700 Broad St., St. Joseph, Michigan 49085-1206  
*Holding on to the Past...Reaching out to the Future*

Frank L. Walsh, City Manager  
(616) 983-5541  
FAX (616) 985-0346

August 11, 1999

SENT VIA TELEFAX (616) 732-1740

Scott Smith, Esq.  
Law, Weathers & Richardson, P.C.  
Bridgewater Place, Suite 800  
333 Bridge Street N.W  
Grand Rapids, Michigan 49504-5360

Dear Mr. Smith:

As we discussed on the telephone Monday, I am requesting a thorough review of the relationship between the City of St. Joseph and the St. Joseph Library Board of Directors.

The City and St. Joseph Charter Township currently operate the Library under a 1981 intergovernmental agreement. The agreement has served both communities extremely well during the past 18 years. However, over the past few months, the question of financing a \$1.3 million Library expansion has brought on several inquiries. During your review, I want you to focus on the following questions.

1. Who is responsible for the hiring/firing of the Library Director?
2. Who is responsible for the Library employees?
3. Who has final approval of the annual Library operating budget?
4. What, if any, governmental agency is responsible for a deficit in the Library budget?
- 4.a. What would happen if the City Commission and the Library Board disagree on the amount of the annual budget?
5. Can the City and Township increase their annual contribution without voter approval?

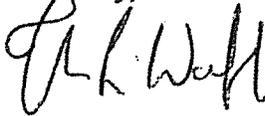
MAYOR - Mary J. Goff

MAYOR PRO TEM - Dennis D. Soucek • CITY COMMISSION - Dr. Jeffrey E. Richards • Robert L. Judd • R. Jack Zimmerman

6. What is your opinion of the current agreement between the City and the Township? Is the agreement fair to both sides?
7. Should the Library be required to hold their own liability insurance covering hiring/firing? (Currently, the Library is covered under the City's MMRMA policy).
8. After reviewing the agreement, do you have any concerns regarding the City's position?

Please respond back to my office no later than Friday, August 27, 1999. Thank you for your attention to this matter.

Sincerely,



Frank L. Walsh  
City Manager

FLW/sdl

Encs.

cc: St. Joseph City Commission

Scott G. Smith  
Direct Dial (616) 732-1724  
E-Mail: ScottSmith@lwr.com

*Sent  
August, 1999*

**CONFIDENTIAL—SUBJECT TO  
ATTORNEY/CLIENT PRIVILEGE**

Mr. Frank Walsh  
City Manager  
City of St. Joseph  
700 Broad Street  
City Hall  
St. Joseph, Michigan 49085-1255

**Re: Library**

Dear Mr. Walsh:

We are writing in response to your letter of August 11, 1999, in which you asked several questions concerning the funding and operation of the Maud Preston Palenske Memorial Library located in the City (the "Library"). In connection with your inquiry, you provided us copies of the following documents:

1. The December 4, 1981, Agreement for Library Service between the City and St. Joseph Township (the "Service Agreement").
2. The September 24, 1984, First Amendment to the Service Agreement (the "First Amendment").
3. The February 3, 1997, Second Amendment to the Service Agreement (the "Second Amendment").
4. The Bylaws of the Library Board dated March 19, 1997, which apparently incorporate all amendments to the bylaws including amendments dated April 16, 1991 and February 15, 1997 (the "Bylaws").

In addition, we have reviewed applicable provisions of the City Charter, including Chapter III, section 34 which provides, in pertinent part, as follows:

There is hereby created a Library Board . . . . \*\*\* Such Board shall have full charge of any and all public libraries in the City of St. Joseph and shall have power to employ librarians and other persons deemed necessary to operate said libraries; also shall have full power to expend as they deem best all moneys appropriated for library use; and may make such rules and regulations as they deem best and proper relative to the conduct of any such library and to the conduct of and persons within such library.

Chapter IX, section 14 of the City Charter provides for a millage levy for library purposes requiring the City Commission to levy, in addition to any other general tax, “. . . a sum not exceeding eight-tenths of a mill nor less than five-tenths of a mill per dollar of assessed valuation of the City of St. Joseph for library purposes . . . .”

The Library was created and exists, according to the Service Agreement, pursuant to the City Charter and pursuant to Act 164 of the Public Acts of Michigan of 1877, as amended, MCLA 397.201 *et seq.* (“Act 164”). The Library is funded by an appropriation made annually by the City Commission consistent with Chapter IX, section 14 of the City Charter, by payments by or on behalf of St. Joseph Township pursuant to the Service Agreement, by the penal fines and other amounts provided pursuant to state law, and by gifts or grants as may from time to time be provided to the Library. Currently, the Library is included in the annual City audit and is also carried on the City’s insurance through the Michigan Municipal Risk Management Authority.

The City levies a library millage, identified as such as a separate line item on the tax bills, in an amount annually established by resolution of the City Commission as part of the annual budgeting process. For the current fiscal year, the levy is 0.68 mills. The Township’s millage levy is consistent with the Service Agreement. Neither the City’s nor the Township’s millage levy is a voted millage although the City’s millage levy is consistent with the City Charter which was approved by the voters.

While the Library has served the community well and the Service Agreement has worked well, recent discussions about a proposed expansion of the Library have resulted in several questions. As a result, you have asked us to address the following:

- Who is responsible for the hiring/firing of the Library Director?
- Who is responsible for the Library employees?
- Who has final approval of the annual Library operating budget?

- What, if any, governmental agency is responsible for a deficit in the Library budget?
- What would happen if the City Commission and the Library Board disagree on the amount of the annual budget?
- Can the City and Township increase their annual contributions to the Library without voter approval?
- Is the Service Agreement as amended fair to both sides?
- Should the Library be required to obtain and maintain its own insurance covering hiring/firing?
- Are there additional areas of concern regarding the Library or the Service Agreement as amended which the City may wish to address?

Our response to your questions must necessarily begin with reference to pertinent provisions of Act 164. Section 5 of Act 164, MCLA 397.205, states, in pertinent part, with reference to the board of directors of a library created and existing under that statute:

Said directors shall . . . make and adopt such by-laws, rules, and regulation for their own guidance and for government of the library and reading room, as may be expedient, not inconsistent with this act. They shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund, of the construction of any library building, and, of the supervision, care, and custody of the ground, rooms, or buildings constructed, leased, or set apart for that purpose: Provided, That all moneys received for such library shall be deposited in the treasury of said city to the credit of the library fund, and shall be kept separate and apart from other moneys of such city, and drawn upon by the proper officers of said city, upon the properly authenticated vouchers of the library board. Said board shall have power to purchase or lease grounds, to occupy, lease, or erect an appropriate building or buildings for the use of said library; shall have power to appoint a suitable librarian and necessary assistants, and fix their compensation; and shall also have power to remove such appointees; and shall, in general, carry out the spirit and intent of this act in establishing and maintaining a public library and reading room.

Section 13 of Act 164, MCLA 397.213, allows a municipality to contract for library services from an adjacent municipality even if there are charter provisions to the contrary. It then permits a municipality which contracts to obtain library services from another

municipality to pay for such services by levying a voted millage of up to two mills, by use of money from its general fund, or by funds received under 1964 P.A. 59, as amended. Section 14, MCLA 397.214, permits a municipality to contract to provide library services to another municipality even if there are charter provisions to the contrary and permits the parties to set the terms and conditions for those services by contract. It requires that a contract pursuant to section 14 is to be for an initial term of three years, with automatic renewals thereafter. Finally, section 15 of Act 164, MCLA 397.215, provides certain requirements for a joint library board established under a contract for library services.

Before addressing your specific questions it should be noted that the Service Agreement was clearly drafted pursuant to Act 164 which permits such contracts despite any contrary City Charter provisions. It should also be noted that the Library itself was established pursuant to Act 164 and that, to the extent there is any conflict between any provision of Act 164 and any City Charter provision, the terms of Act 164 would govern. *Benton Harbor Library Bd v City of Benton Harbor*, 99 Mich App 62; 297 NW2d 619 (1980).

The remainder of this letter will address your specific questions. We have taken the liberty of grouping them to avoid duplications in our responses.

- Who is responsible for the hiring/firing of the Library Director?
- Who is responsible for the Library employees?

Both Article III, section 34 of the City Charter and section 5 of Act 164 give to the Library Board the exclusive authority to hire and fire, and to establish the compensation and, presumably, the duties, etc. of library employees. Indeed, if the city charter establishes an independent library board as provided in Act 164, a city may not even impose upon library employees terms of employment generally applicable to all city employees, such as a residency requirement. *Benton Harbor Library Bd, supra*. Therefore, the Library Board, not the City Commission, has the ultimate authority over and responsibility for Library employees.

- Who has final approval of the annual Library operating budget?
- What, if any, governmental agency is responsible for a deficit in the Library budget?
- What would happen if the City Commission and the Library Board disagree on the amount of the annual budget?

- Can the City and Township increase their annual contributions to the Library without voter approval?

If there was a voted, dedicated millage, the Library Board would have the exclusive control over all aspects of the annual library budget. 1995-96 OAG 6924, p 226. However, Article IX, section 14 of the City Charter leaves it up to the City Commission to determine the annual millage levy for the Library provided it levies not less than 0.5 mills and not more than 0.8 mills. Similarly, paragraphs 4A and 4B of the Service Agreement clearly establish the minimum amount of any annual Township contribution to the Library. Section 5 of Act 164 (quoted above) gives the Library Board the "exclusive control . . . of monies collected to the credit of the library fund. . . ." Accordingly, the Library Board has exclusive control over the funds once they are collected, but not over how much is collected. Therefore, the Library Board does not control the total amounts of the funds annually provided to the Library. The total amounts lie within the narrow discretion given the City Commission and Township Board under the terms of the City Charter and the Service Agreement.

Under the terms of the City Charter the City may not levy more than 0.8 mills for library purposes. Section 1 of Act 164, however, would allow the City to levy up to 1.0 mill for library purposes and, if approved by City electors, up to 1.0 addition mill. Moreover, either the City or the Township could expend for library purposes additional general fund moneys. A vote of the electors is required only to the extent a dedicated millage is to be levied for Library purposes.

Once the annual contributions are established, Article III, section 34 of the City Charter and section 5 of Act 164 clearly provide the Library Board exclusive control over the Library budget and the expenditure of all Library funds. However, the Library Board has no authority to create any deficit and is therefore prohibited from doing so. MCLA 141.435, 141.436. Any borrowing of funds must comply with applicable statutes governing debt and borrowing. MCLA 141.438.

- Should the Library be required to obtain and maintain its own insurance covering hiring/firing?

This is more of a policy than a legal question. However, it would be legally permissible and probably not unreasonable to require the Library Board to pay the premiums for its insurance coverage if not obtain its own insurance. The Library Board has exclusive control over the budget (within the annually allocate amounts), personnel, buildings and grounds. If the Library will be obtaining its own insurance, the City should be named as an insured or additional insured and certificate holder.

Mr. Frank Walsh

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It is appropriate and certainly legally permissible for the Library to pay the costs of all aspects of the library. This could, for example, include reimbursement of the City for any costs incurred by the City related to the Library. (Of course, the Library Board could also seek another provider for the services for which it paid any costs.)

- Is the Service Agreement as amended fair to both sides?
- Are there additional areas of concern regarding the Library or the Service Agreement as amended which the City may wish to address?

Your letter states that the Service Agreement has worked well. From our telephone conversation, I understood that both parties are satisfied with the current arrangement. If that is true, then, "If it ain't broke, don't tinker with it." After all, fairness is generally a matter of perception. If the parties are generally satisfied, they must perceive the Service Agreement to be reasonably fair.

If, however, one or both of the parties is dissatisfied, then it should be noted that, depending upon actual usage, it would appear that, if the Township contributes at most 0.5 mills and the City contributes up to 0.8 mills, currently 0.68 mills, the City may be disproportionately supporting the Library. However, without reviewing usage figures and total S.E.V. figures for the two parties, we are unable to discern whether the overall contributions of the respective parties are proportionate and fair.

Conversely, depending on overall usage and actual monetary contributions of the parties, the Township might argue that limiting it to appointing only four of the nine Library Board members, is not fair. This is especially true if the Township monetary contributions make up more than one-half of the Library budget or there are more Library users from the Township than from the City.

We hope we have fully addressed your inquiry regarding this matter. If you have additional questions or we can be of additional assistance, please contact us.

Sincerely,

Scott G. Smith

/tdb

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## AGREEMENT FOR LIBRARY SERVICE

This Agreement is made this 14 day of February 2005, by and between the CITY OF ST. JOSEPH, a Michigan municipal corporation, and ST. JOSEPH CHARTER TOWNSHIP, a Michigan charter township, pursuant to MCL 42.1, et seq., WITNESSETH:

WHEREAS, the CITY OF ST. JOSEPH by charter and pursuant to MCL 397.201 et seq. currently operates a library located in the City of St. Joseph, and

WHEREAS, the parties are desirous of entering into a contract to provide for the utilization of that library's facilities and services by residents of St. Joseph Charter Township;

NOW, THEREFORE, the parties agree as follows:

1. **Definitions:**

"Actual Audited Operating Expenses" (or "Expenses") means the actual audited operating expenses of the Library in a particular Library Fiscal Year, excluding any expenditure for real property, or replacement of real property or fixtures not deemed routine maintenance, or any monies set aside in any reserve account, including investments, restricted or unrestricted, or monies allocated for depreciation of capital assets.

"Annual Contribution" means as appropriate either 1) the sum of the Township's contribution (including any voluntary additional contributions), state aid, and penal fines paid to the Library on the Township's behalf for the Library Fiscal Year, or 2) the sum of the City's dedicated library tax millage (including any voluntary additional

contributions), state aid, and penal fines paid to the Library on the City's behalf for the Library Fiscal Year. Township and City contributions shall be accrued as reflecting the period in which the contribution becomes due, rather than the period in which the contribution is paid.

"Library" means the Maud Preston Palenske Memorial Library, also known as the St. Joseph Public Library.

"Library Fiscal Year" means the period beginning with July 1 of a particular calendar year, and ending on June 30 of the following year.

"Percentage of Contribution" means the Township's Annual Contribution divided by the sum of the Township's Annual Contribution and the City's Annual Contribution for the same Library Fiscal Year. For example, if the Township's Annual Contribution were \$306,000 and the City's Annual Contribution were \$374,000, the Percentage of Contribution would be 45.00%, calculated as follows:  $\$306,000 \div (\$306,000 + \$374,000) = 45.00\%$

## **2. Township Annual Contribution to Library**

The parties agree that all sums billed to and paid by the Township for the period from January 2003 through December 2004 are correct. For the months of January 2005 through July 2005, the Township shall make disbursements of \$14,096.96 per month.

Effective July 6, 2005, for five months, then annually starting January 1, 2006, the Township agrees to pay the Library each year a fixed sum of money. This sum shall be disbursed to the Library in twelve (12) equal monthly payments, in January through December of each year.

2005: For the months of August through December 2005, the Township shall make disbursements of \$13,247.07 per month.

2006 through 2008: For the months of January 2006 through December 2008, the Township shall make disbursements of \$13,916.54 per month, for an annual total of \$166,998.48 each year.

The Township agrees to direct Berrien County to allocate to the Library the penal fine monies allocated to the St. Joseph Charter Township under the provisions of MCL 397.31 et seq. during the term of this Agreement.

The Township agrees to allocate its portion of library state aid monies to the Library during the term of this Agreement.

The Township's total Percentage of Contribution shall not exceed 48%.

In the event that the Library's annual audit should indicate that the Township's Percentage of Contribution exceeded 48% for any Library Fiscal Year, the Library shall within 45 days refund the excess amount to the Township.

These provisions shall be retroactively effective for the year 2005.

**3. Use of Library**

The services and facilities of the Library shall be available equally to all residents of the City and the Township. No distinction of any sort shall be made between City and Township residents, except for statistical purposes.

**4. Library Board**

The Library Board shall have nine members: five members appointed by the City Commission of the City of St. Joseph, and four members appointed by the Board of Trustees of St. Joseph Charter Township. Township Library Board members shall be afforded all the rights and privileges afforded City Library Board members.

The terms of office of Board members appointed by the Township shall be for three (3) years, except in the case of the first four (4) appointments, one (1) of which

shall be for one (1) year, one of which shall be for two (2) years, and two (2) of which shall be for three (3) years. If this Agreement is terminated, the terms of the appointed board members shall end on the date of termination of this Agreement.

In the event any Township Library Board member shall cease to be a resident of the Township, that Board member's seat shall be vacant and the Township shall appoint a replacement who shall serve for the balance of the term of such Board member, otherwise Board members shall continue to serve until their replacement is appointed. Township Library Board members may be removed for cause by the Township Board of Trustees. Causes for removal include, but are not limited to, conviction of a crime involving moral turpitude; physical or mental disability which prevents the Board member from serving on the Board for three (3) consecutive meetings unless absence is excused specifically by the Board; failure or neglect to perform the duties of a Library Board member, including, but not limited to, three (3) consecutive unexcused absences from Library Board meetings; and such other cause as the Township Board of Trustees may determine to be in the best interest of the Library Board to remove such a Township Library Board member.

The City and the Township further agree that no additional municipalities shall be allowed representation on the Library Board without the approval of both the City and the Township.

**5. Personal Property Equity**

The Township shall in each Library Fiscal Year acquire an equity interest in all tangible personal property acquired by the Library in an amount equal to the Township's Percentage of Contribution for that year. For example, if the Township' Percentage of Contribution for a given Library Fiscal Year was 45%, then the Township shall acquire

an equity interest equal to 45% of the value of personal property acquired in that year. Personal property will include but not be limited to the following examples: books, cassette and video tapes, compact discs, DVDs, office equipment, computer equipment, and audio-visual equipment.

Personal property shall be depreciated in accordance with generally accepted accounting principles, and the Township's equity interest shall be valued proportionately on the Library's financial statements.

**6. Endowment**

This Agreement recognizes the continued existence of the Library endowment as established by the "Endowment Agreement" of November 19, 1985, and as may be modified by successor agreements. The City and the Township agree that the Endowment Agreement shall continue in full force and effect in accordance with its terms and conditions and that for purposes of Paragraph 6 of the Endowment Agreement, 'existing contract' shall mean this Agreement.

**7. Statistical Reports**

The Library Director shall provide to the City and the Township monthly statistical reports including information on Library usage by City and Township residents. The Library Director also shall provide a similar annual statistical report of usage in each Library Fiscal Year,

**8. Prior Agreements**

This Agreement supersedes and rescinds the December 4, 1981 Library Agreement and all amendments.

9. Future Adjustments

To the extent the law does not make adequate provision for equitable adjustments of obligations contained in this Agreement, in the event of change in municipal boundaries during the term of this Agreement, the City and Township will negotiate in good faith at the time such change occurs.

10. Duration; Termination.

The term of this Agreement shall be for three (3) years and shall be extended for an indefinite term after the initial three (3) year period. Either party may terminate the Agreement by giving at least six (6) months written notice of the effective date of the termination to the Clerk of the other party.

Upon termination of this Agreement, the Township shall be entitled to payment in cash or extended use of the Library equivalent to cash for the un-depreciated value of the personal property equity as described in this Agreement.

A portion of cash on hand or cash equivalent resulting from contributions toward Expenses shall be paid to the Township, in proportion to the Township's percentage of contribution for the prior Library fiscal year, except that cash on hand or cash equivalent equal to three (3) months operating expenses shall be excluded from this calculation.

For example, if the Expenses in the prior Library Fiscal Year were \$600,000, the Library's cash on hand were \$250,000, and the Township's percentage of contribution were 45%, the Township would be entitled to:

\$250,000 cash  
-\$150,000 excluded operating reserves (\$600,000/4)  
\$100,000  
X 45%  
\$ 45,000 due the Township

The Township shall have no right to receive any part of the real property or fixtures upon termination.

This Agreement was approved by the St. Joseph Charter Township Board of Trustees and by the St. Joseph City Commission on the date(s) noted to the left of the duly authorized signatures below.

**CITY OF ST. JOSEPH**

Date:  
February 7, 2005

By: Mary J. Goff  
Mary J. Goff, Mayor  
By: Peggy Block  
Peggy Block, Clerk

**ST. JOSEPH CHARTER TOWNSHIP**

Date:  
February 7, 2005

By: Ronald Griffin  
Ronald Griffin, Supervisor  
By: Janet M. Helsley  
Janet Helsley, Clerk

## Richard Lewis

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**From:** Mark Clapp  
**Sent:** Monday, November 25, 2013 2:42 PM  
**To:** Richard Lewis  
**Subject:** Fwd: Indiana Michigan Power - Street Light Maintenance - MI - Janet Owsianka  
**Attachments:** ATT00001.jpg; ATT00003.jpg; ATT00002.jpg

Begin forwarded message:

**From:** Janet Owsianka <[jowsianka@sjcity.com](mailto:jowsianka@sjcity.com)>  
**Date:** November 25, 2013 8:47:50 EST  
**To:** Police General <[Police@sjcity.com](mailto:Police@sjcity.com)>, Fire General <[Fire@sjcity.com](mailto:Fire@sjcity.com)>  
**Subject:** FW: Indiana Michigan Power - Street Light Maintenance - MI - Janet Owsianka

FYI. All lights out listed below were received by I&M.

**From:** [customer\\_service@aep.com](mailto:customer_service@aep.com) [[mailto:customer\\_service@aep.com](mailto:customer_service@aep.com)]  
**Sent:** Saturday, November 23, 2013 5:40 AM  
**To:** Janet Owsianka  
**Subject:** Re: Indiana Michigan Power - Street Light Maintenance - MI - Janet Owsianka

Dear Janet Owsianka:

Thank you for contacting us at [IndianaMichiganPower.com](http://IndianaMichiganPower.com).

The order numbers (listed below), reporting the street lights out in your area, have been placed. We appreciate you bringing this to our attention, and will make repairs as soon as possible.

<u>Location</u>	<u>Order #</u>	<u>Location</u>	<u>Order #</u>
South & North Sunnybank Hillcrest	042567579 046968552	Langley and	
Langley and Miller (multiple street lights)	040038772	Langley and	
Lewis	048177013		
River Ridge and Lewis Ridge	044439542 043607039	Wolcott and River	
Langley and Margaret Michigan	048246311 042608399	Langley and	
1300 block of Michigan, Pole: B2151029	046939351	1300 block of Michigan, Pole:	
B2151032	043058797		
Hagar Court	044587029	1300 block of	
Harrison	043986236		
2311 Old Lakeshore Drive	041496849	2535 Old Lakeshore	
Drive	044692188		
218 North Sunnybank	046037609	219 South	
Sunnybank	043527796		
Old Lakeshore Drive and Sunnybank	041353359	Dunham and	

Cleveland	043397209	
Dunham and James	048095090	218
Ward	046512099	
Ward and James	045970142	Cleveland and
Ward	048776102	
Lakeview and Whittlesey	047538664	Lakeview and
Kingsley	045845318	
Lakeview and Wallace	043616292	2100
Lakeview	041218797	
2020 Lakeview	044586220	Lakeview and
Madison	047136578	
Lakeview and LaSalle	049234677	Lakeview and
Howard	045841676	
Lakeview and Archer	046726465	

If we can be of any further assistance, you are welcome to email us at [customer\\_service@AEP.com](mailto:customer_service@AEP.com). When emailing us, please include a copy of the original inquiry and subsequent responses.

Sincerely,

Barbara D.  
 Indiana Michigan Power®



"This message, including any attachments, contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message and are hereby notified that any disclosure, copying, or distribution of this message, or taking any action based on it is strictly prohibited."

# Enjoy Ice Skating in St. Joseph

at the  
John and Dede Howard Ice Arena

2414 Willa Drive • St. Joseph  
983-8795 [www.sjcity.com](http://www.sjcity.com)

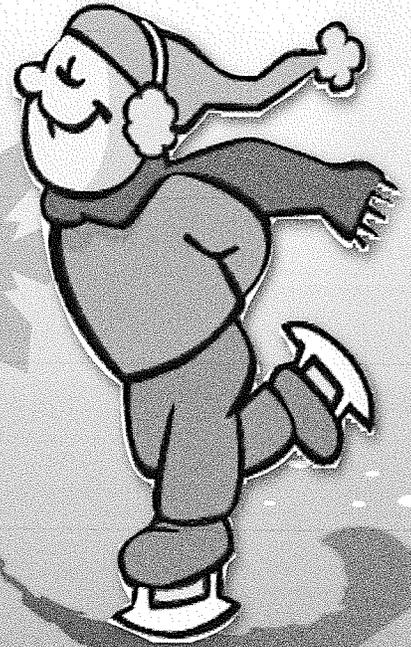
Opening Thanksgiving Day, Thursday,  
November 28th at 12PM

## Public Skate Hours

- Monday: 11am - 1pm
- Tuesday: 11am - 1pm
- Wednesday: 11am-3pm
- Thursday: 11 am - 3pm
- Friday: 11am - 6pm
- Saturday: 6pm - 10pm
- Sunday: 2pm - 6pm

## SPECIAL OPEN SKATE HOURS THANKSGIVING WEEKEND

Thanksgiving Day: 12pm-8pm  
Friday, Nov 29: 12pm-8pm  
Saturday, Nov 30: 6pm-10pm  
Sunday, Dec 1: 2pm-6pm



**HAPPY  
SKATING!**