

CRENNA M. BRUMWELL, ESQ.
CITY ATTORNEY

TO: MAYOR ROY D. BUOL AND MEMBERS OF THE CITY COUNCIL

DATE: NOVEMBER 1, 2018

RE: REFERENDUM QUESTIONS

As City Council weighs options for a possible referendum related to renovation and expansion of Five Flags I've researched the rules and regulations which will apply to members of the City Council, city staff, and members of city boards and commissions.

CITY COUNCIL

I was asked the following:

we discussed we as a City Representatives could not speak for or against Five Flags at goal setting so my question is what is the rule on letters of support from groups like Travel Dubuque who reference that they're being written on behalf of the "Board of Directors" supporting we expand it when some of us may be on that Board? We don't serve as individuals but as city representatives when serving on these boards, so is this considered us giving support if the board in general is mentioned as supporting this within the letter of support?

I know we're only receiving and filing that letter but if it is documented as support for Five Flags, I just want to make sure we're not creating future issues for any of us?

I'm sure we'll have more instances potentially but the Travel Dubuque letter is on our consent items tonight and I was curious how those instances are viewed and if it would need to somehow notate any city representatives on these boards were not part of that support letter? I could see how this could be interpreted as support by city reps with a broad board reference so just wondering the rule on these things or if the council members on those boards needed to abstain or vote no or something from that item acceptance to reflect their non support or indifference?

First, City Council members serving on boards do so pursuant to their membership on the City Council. The role is not as an individual nor as representative of the entire City Council. In the event a referendum will be put to the voters City Council members serving on boards which will take a position on the referendum should abstain from participation in the discussion and voting by the board.

Second, outside of board meetings or City Council meetings members of the City Council may take a position in their individual capacity but should be cautious NOT to do so as “Jamie Smith, City Council Member.” The Iowa Attorney General discussed this topic in a 1982 opinion related to a school principal and making clear actions are in an individual capacity and not as a school official when advocating for passage of a bond issue outside the school building and outside school hours.

What we have said is in relation to the official activity of the school. This is not to say that school board members or employees of the school district are prohibited from participating, as individuals, in a campaign for a bond issue. The Iowa Supreme Court has stated: The members of the board of directors are not prohibited, because of their official position, from taking an active interest in the election, or from conducting a campaign in favor of the proposition. They did not, by accepting positions as members of the school board, surrender any rights which they had as citizens. Their familiarity with the wants and needs of the district justified them in making such a campaign as they thought the needs of the district demanded.

Chambers v. Board of Education, 172 Iowa 340, 345, 154 N.W. 581, 583 (1915). See also Keokuk Water Works v. City of Keokuk, 224 Iowa 718, 277 N.W. 291 (1938); Johnson v. Inc. Town of Remsen, 215 Iowa 1033, 347 N.W. 552 (1933). 1982 Iowa Op. Atty. Gen. 423 (1982).

This carries over to social media as well. Upon passage of a resolution putting the matter to a public ballot, city council members are prohibited from taking a position on social media platforms affiliated with their roles as members of the City Council. Personal social media pages may be used to participate and advocate for a proposition.

Third, the City Council CAN as a body express an opinion on a ballot measure through the passage of a resolution or proclamation. The City Council is still PROHIBITED from devoting city resources toward specifically advocating in favor of or against said ballot issue/referendum.

Use of public money for political purposes is prohibited by state code. The code section is provided in a later section of this memo.

Advocacy for a referendum by city council members as city council members, is prohibited upon passage of a resolution which puts the matter on a public ballot. Passage of a resolution is the proverbial line in the sand triggering certain rules/prohibitions.

RESEARCH

First, I have included relevant state code provisions governing the usage of public funds and resources.

Second, I polled other city attorneys in the largest of Iowa cities for their experiences and guidance related to referendum issues.

Finally, I asked for guidance from the Ahlers & Cooney law firm in Des Moines as the firm consults with municipalities of all sizes across the state. After receiving information from Ahlers I asked some specific questions for Dubuque to which I received additional advice. The gathered information is included on pages 4-20.

RELEVANT CODE SECTIONS (some emphasis/explanation added)

68A.505 Use of public moneys for political purposes.

1. The state and the governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue. (*Crenna Explanation: No city money can be spent advocating for/against a ballot issue*)

2. This section shall not be construed to limit the freedom of speech of officials or employees of the state or of officials or employees of a governing body of a county, city, or other political subdivision of the state. (*Crenna Explanation: City employee and council members may take individual positions/speech on the ballot issue is allowed*). This section also shall not be construed to prohibit the state or a governing body of a political subdivision of the state from expressing an opinion on a ballot issue through the passage of a resolution or proclamation. (*Crenna Explanation: City Council as a body CAN express an opinion via resolution or proclamation*)

721.2 Nonfelonious misconduct in office.

Any public officer or employee, or any person acting under color of such office or employment, who knowingly does any of the following, commits a serious misdemeanor:

1. Makes any contract which contemplates an expenditure known by the person to be in excess of that authorized by law.

2. Fails to report to the proper officer the receipt or expenditure of public moneys, together with the proper vouchers therefor, when such is required of the person by law.

3. Requests, demands, or receives from another for performing any service or duty which is required of the person by law, or which is performed as an incident of the person's office or employment, any compensation other than the fee, if any, which the person is authorized by law to receive for such performance.

4. By color of the person's office and in excess of the authority conferred on the person by that office, requires any person to do anything or to refrain from doing any lawful thing.

5. Uses or permits any other person to use the property owned by the state or any subdivision or agency of the state for any private purpose and for personal gain, to the detriment of the state or any subdivision thereof.

6. Fails to perform any duty required of the person by law.

7. Demands that any public employee contribute or pay anything of value, either directly or indirectly, to any person, organization or fund, or in any way coerces or attempts to coerce any public employee to make any such contributions or payments, except where such contributions or payments are expressly required by law.

8. Permits persons to use the property owned by the state or a subdivision or agency of the state to operate a political phone bank for any of the following purposes:

a. To poll voters on their preferences for candidates or ballot measures at an election; however, this paragraph does not apply to authorized research at an educational institution.

- b. To solicit funds for a political candidate or organization.
- c. **To urge support for a candidate or ballot measure to voters.**

INFORMATION FROM OTHER CITIES IN IOWA

Cedar Rapids

Crenna, we have used this in the past. I see that we don't really discuss the notion that disseminating factual information about how money might be spent, etc., is not supporting or opposing a ballot measure. Good luck.

Each time that a city election is held we send out a reminder as to the legal issues of using city property or other resources for political purposes.

Iowa Code Section 68A.505 prohibits a city council, or the governing body of any political subdivision, from spending or permitting the spending of public moneys for political purposes. Political purposes include supporting or opposing candidate for public office, or any ballot issue. The term "public moneys" is not defined in Iowa Code Chapter 68A. Using the applicable rules of interpretation, the statute should be interpreted broadly to aid in the effectuation of its purpose which is to prohibit the use of public money to influence a particular outcome of an election. The term "public moneys" should be interpreted broadly as meaning not just money in the strict sense but also to include city property or resources supported by city funds and the work time of city employees. However, this section expressly states that it is not to be construed to limit the freedom of speech of officials or employees of the city. Violation of this law is a serious misdemeanor.

In addition, Iowa Code Section 400.29 prohibits civil service employees, while performing official duties, or while using any public equipment, from soliciting in any manner contributions for any political candidate. Additionally, a civil service employee is prohibited from engaging in any political activity during working hours, while performing official duties, or while using city equipment that impairs the efficiency of operations. However, this section also provides that it is not to be construed to prohibit any employee or group of employees, individually or collectively, from expressing honest opinions and convictions, or making statements and comments concerning their wages or other conditions of their employment.

As a result of the foregoing, we advise that city officers and employees, including those of city board and commissions, should not use public funds, facilities, equipment or supplies to support or oppose a ballot proposition. City officers and employees, and those of its board and commissions, should not engage in activities in support of, or in opposition to any ballot issue, while working or performing official duties on behalf of the city, or through the use of city resources or equipment. This advice should not be taken as restricting the freedom of speech of city officers or employees.

Please communicate this to the officers and employees within your areas. Please call me with any questions.

Council Bluffs

Council Bluffs was successful at getting a 20 million bond issue approved for a new police station a couple of years ago. We had our social media people stick strictly with facts regarding the dire state of the current police station and what a new police station would do to help with public safety in our community.

There was a citizens group that was formed to really push the issue. They put out one mailer that had logos of different businesses and organizations that supported the passage of the issue and they without thinking included the City's logo on it. We were quick to have them change it.

Iowa City

Crenna – the last written memo my office did was 20 years ago in connection with the library expansion but I'll send it to you as it might help get you started.

What I have done on several occasions (library expansion in 1999 and sales tax votes since) is forward the informational material to the Director of the Ethics Board for approval before we make it public. Both Megan Tooker, and Charlie Smithson before her, were incredibly responsive.

City of Iowa City

MEMORANDUM

Date: March 20, 1998

To: Susan Craig, Library Director

From: Andrew P. Matthews, Assistant City Attorney *AM*

Re: Legal Opinion on Library Referendum Support Activities

I. Issue

You inquired as to what activities library personnel may and may not engage in with respect to the likely library referendum. Related to this is the question of proper use of City funds regarding referendum activities. Additionally, you asked about limitations on campaign contributions for political committees, and reporting obligations for political committees.

II. Conclusion

Public funds may not be used by the City, or its employees, to support or oppose a ballot measure. City personnel may not engage in activities on City time to support or oppose a ballot measure. These prohibitions include the use of all City resources, be they of staff time, vehicles, space, products or supplies, equipment, or material. Library staff or other City employees should not be devoting any of their time or efforts toward the formation of, or activities in, a political committee, while on City time.

"Information packets" that do not support or oppose the ballot issue may be developed using City resources. If the City, or the Library, as a City department, wishes to put out an "information packet", such material must be silent as to how one should vote, and informational only. For example, if the City were to put together an info packet which presents questions and answers giving reasons for construction of a new addition to the Library, including a statement of the anticipated need for additional space, such information would be permissible.

Additionally, City Code section 1-9-2A limits total contributions by individuals to \$50 and prohibits a political committee from accepting more than \$50 total from any contributor. City Code section 1-9-2C requires that a committee receiving funds, the original source of which was a loan, shall be required to list the lender as a contributor. There are also a number of reporting obligations with respect to political committees under state law that the political committee will need to be aware of and follow.

III. Analysis

The City plans to submit a library referendum ballot issue to voters. Library Director Susan Craig has asked the City Attorney's office for guidance as to the limitations placed on activities and on the use of public funds or property in connection with this ballot issue.

It is my understanding that the library staff is gearing up for the ballot issue and volunteers will be forming a political committee to advocate on behalf of the ballot measure. With the formation

of such a political committee come certain funding and reporting requirements under state law, which can be found in chapter 56 of the Iowa Code.

Chapter 56.12A of the Iowa Code specifically prohibits the use of public monies for political purposes, including supporting or opposing a ballot issue. Set out in its entirety, it states:

The state and the governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public monies for political purposes, including supporting or opposing a ballot issue.

This section shall not be construed to limit the freedom of speech of officials or employees of the state or officials or employees of a governing body of a county, city, or other political subdivision of the state. This section should not be construed to prohibit the state or governing body of a political subdivision of the state from expressing an opinion on the ballot issue through the passage of a resolution or proclamation.

Two Iowa attorney general opinions reaffirm such prohibitions and provide certain guidelines on activities and expenditures. In Opinion No. 91-12-2, December 10, 1991, the attorney general's office reviewed such prohibitions from the perspective of home rule authority, dismissing home rule authority arguments in favor of the underlying policy that expenditures of public funds to promote or oppose a ballot issue would be an inappropriate expenditure of public funds. It noted that public funds can be used to prepare and disseminate information to electors concerning reasons for proposing a ballot issue, but not to advocate a particular side on a ballot issue. It should be noted that the Iowa Supreme Court, in Leonard vs. Iowa State Board of Education, 471 N.W.2d 815, 817 (Iowa 1991) cited with approval the above noted attorney general opinion, assuming that the attorney general opinion represented correct statements of Iowa law. The Court determined that it was not improper for the local school board to expend funds to disseminate information to the public concerning the reasons for construction, needs, plans, and anticipated costs. The Court found that such action, in itself, did not amount to promoting a "yes" vote.

In another attorney general opinion, No. 92-4-4, April 14, 1992, the attorney general's office opined that public funds may be used to maintain a charter commission through the date of the election on the proposed charter but that public funds may not be used for expressly advocating support for or opposition to the proposed charter, even though private funds may be so expended. It noted that contributions and expenditure of private funds for express advocacy is subject to separate accounting and reporting under Chapter 56 of the Iowa Code.

Apart from the prohibitions on the use of public monies for political purposes found in Section 56.12A of the Iowa Code, Chapter 721 of the Iowa Code provides further prohibitions in the context of the criminal law.

Section 721.2 (Nonfelonious Misconduct in Office) provides that any public officer or employee who knowingly does any of the following, commits a serious misdemeanor:.... (8) permits persons to use the property owned by the state or subdivision or agency of the state to operate a political phone bank for any of the following purposes: (a) to poll voters on their preferences for candidates or ballot measures at an election; however, this paragraph does not apply to authorized research at an educational institution; (b) to solicit funds for a political candidate or organization; (c) to urge support for a candidate or ballot measure to voters.

While Section 721.2(5 and 8) by their language only apply to "the property owned by the state or a subdivision or agency of the state," and not to "political subdivisions of the state" which would specifically include municipalities, it would be prudent for you and your staff to conduct your actions as though they did apply to municipalities, as case law and Iowa attorney general opinions suggest such conduct, if conducted by a municipality, or its employees, would be improper.

Section 721.4 prohibits any person to use or permit to be used any motor vehicle owned by the state or any political subdivision for the purpose of transporting any political literature or any person or persons engaging in a political campaign for any political party or any person seeking an elective office.

Accordingly, it is recommended that City vehicles not be used in connection with transporting any political literature which advocates a particular view on the ballot measure, as such activity may also violate Section 56.12A provisions prohibiting the expenditure of public monies in either support, or opposition to, a ballot measure.

As chapter 56 – Campaign Finance – details numerous requirements and prohibitions, I attach a copy of said Chapter herewith to aid you in reviewing its provisions.

In brief summary, City resources (including time, space, supplies and the like) may not be used in support of, or opposition to, a ballot measure. City personnel, while on City time, may not engage in activities in support of, or opposition to, a ballot measure, and City property should not be used in support of, or opposition to, a ballot measure.

Finally, with the formation of a political committee to urge support for, or opposition to, a ballot measure, comes numerous reporting requirements, obligations, and prohibitions.

Attachment

cc: Eleanor Dilkes, City Attorney
Steve Atkins, City Manager
Karin Franklin, Director – Planning and Community Development
Marian Karr, City Clerk

andy/mem/craig.doc

AHLERS & COONEY INFORMATION



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TO: Crenna Brumwell
FROM: Kristin Cooper
DATE: September 18, 2018
RE: Election campaign limitations

This memo provides guidance on two points:

- (1) WHAT CAN MEMBERS OF THE COUNCIL AND CITY OFFICIALS/EMPLOYEES DO IN CONNECTION WITH PROMOTION OF AN ELECTION?
- (2) WHAT IS THE PROCESS AND WHAT ARE THE REGULATIONS FOR ESTABLISHING A CITIZENS' COMMITTEE TO PROMOTE A PUBLIC MEASURE?

A summary of FAQs related to the above is also attached as a reference.

What can the Council, City officials and employees do relative to the election?

The Iowa Code provides:

The state and the governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue.

This section shall not be construed to limit the freedom of speech of officials or employees of the state or of officials or employees of a governing body of a county, city, or other political subdivision of the state. This section also shall not be construed to prohibit the state or a governing body of a political subdivision of the state from expressing an opinion on a ballot issue through the passage of a resolution or proclamation.

Iowa Code ' 68A.505. This statute provides the boundaries that define the appropriate conduct of governing officials and employees **ONCE THE ELECTION HAS BEEN CALLED.**

Sorting out exactly how this applies can be confusing. Material prepared and distributed by the governing body must not advocate a particular vote on a ballot issue. Officials and

employees, acting as individuals, may participate in activity to promote or oppose a public measure.

It is clear that public funds cannot be used to support or oppose an election. However, a public body that decides to place a proposal before the voters will have gone through an extensive process for deciding, for example, that the project or proposal is needed. The Attorney General issued an opinion with respect to distribution of a circular concerning construction of a new care facility. The pamphlet gave reasons for construction of the new care facility, including a statement of the anticipated need of additional beds and new City care facility standards. The pamphlet presented the architect's estimate of cost for the proposed building and a statement of the known alternatives. The Attorney General concluded that the data prepared and circulated in the pamphlet appeared to serve the purpose to inform the voters, so the cost of printing was a proper expenditure of public funds.

The June 24, 1980 opinion, however, makes it clear that if the pamphlet urges a particular vote on the bond issue, it would no longer be serving an information purpose and so would be an improper expenditure of public funds.

In a May 24, 1982 letter opinion, the Attorney General was of the opinion that a school sponsorship of a vote "yes" poster contest or a vote "yes" message in a school newsletter is impermissible, but that school officials or employees were free to work as individuals to promote or oppose a bond issue.

In Leonard v. Iowa State Council of Education, 471 N.W.2d 815 (Iowa 1991), the Supreme Court of Iowa upheld the findings of these AG Opinions.

The concepts in the above opinions were converted to the statute set out above. Informative materials prepared by a governing body must stop short of promoting a "yes" or "no" vote on a particular ballot issue. Public officers and employees "acting under color of such office or employment" are prohibited by the Official Misconduct chapter of the criminal code from permitting the use of government property to operate a political phone bank to poll voters on their preferences for candidates on ballot measures, to solicit funds for a political candidate or organization or to urge support for a candidate or ballot measure. Iowa Code '721.2(8). The Ethics and Campaign Disclosure Council has recently stated its intent to fine officials who violate the law.

However, the second paragraph of Iowa Code '68A.505 quoted above makes it clear that officials and employees, as individuals acting on their own, may promote a ballot issue. We believe that they may individually participate in a campaign on one side or the other. They may answer factual questions relating to the needs of the governing body and the reasons for the proposition so long as they are not directed to do so as part of official duties and so long as it is done on the officers' or employees' own time and at their own expense.

In summary, public money cannot be spent to advocate for or against a ballot proposition. Material prepared and distributed by the governing body must not advocate a particular vote on a

ballot. Officials and employees, acting as individuals, may participate in activity to promote or oppose a public measure.

Citizens Election Committee.

Often public measures draw the support (and possible opposition) of certain factions within the community. One strategy to assist in the education process for a particular proposition is the formation of a private organization to promote public measures.

The activity of such organizations is regulated by the Campaign Finance Disclosure Act, Iowa Code chapter 68A, as amended from time to time. In addition, the Iowa Ethics and Campaign Finance Disclosure Council has promulgated rules that provide the details for the operation of campaign committees.

One important distinction between ballot issues and the election of individuals to public office is that corporations may contribute to a campaign in support of or opposition to a public measure; corporations may not contribute to the campaigns of individual candidates. Based on the discussion above, public funds cannot be used to support these advocacy organizations.

When a campaign committee is formed, care should be taken that the procedures are followed in organizing it. Persons who hold responsibility for filing reports, preparing advertising materials and other activity must comply with the statutes and rules to avoid negative publicity as well as being subject to reprimands or fines.

Another word of caution is necessary. Members of a governing body who participate in a citizens' committee should be sensitive to the requirements of the open meetings law. If a quorum of the Council is present at a meeting of a campaign committee, the provisions of Iowa Code chapter 21 may apply.

USE OF PUBLIC FUNDS FOR POLITICAL PURPOSES

I. Questions and Answers Related to What Council Members, City Officials and Employees Can Do in Connection with Promotion of a Ballot Measure?

Q. Can a public body spend money to advocate the passage (or defeat) of a ballot measure?

- A. No. Public money cannot be used for political purposes, including attempts to pass or defeat a ballot issue. The Iowa Code provides:

The state and the governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue.

This section shall not be construed to limit the freedom of speech of officials or employees of the state or of officials or employees of a governing body of a county, city, or other political subdivision of the state. This section also shall not be construed to prohibit the state or a governing body of a political subdivision of the state from expressing an opinion on a ballot issue through the passage of a resolution or proclamation.

Iowa Code § 68A.505 (2017) (emphasis added). This statute provides the boundaries that define the appropriate conduct of governing officials and employees **ONCE THE ELECTION HAS BEEN CALLED.**

Q. Can a public body spend money to distribute informational material about an upcoming ballot measure?

- A. Yes, as long as that information does not advocate the passage or defeat of the ballot measure. A public body has the authority to disseminate information to the public concerning the reasons for the ballot issue, such as needs, plans, and anticipated costs. It is important that this information remain neutral and not promote a “yes” or “no” vote.

Q. Can a Council member, official or employee campaign for or against a ballot measure?

- A. Yes. The Iowa Code specifically states that it does not limit the freedom of speech of officials or employees of a governing body. Council members, officials, and employees must be sure they are acting as citizens of the community in promoting their position on the ballot measure.

When utilizing social media, it is imperative that the Council member, official or employee is posting, blogging, etc. solely in their role as a citizen, not as a representative of the public body. These lines can be easily blurred on the recipient-end. Accordingly, use of the utmost of caution is advised. **There is no benefit to taking an action that could allow for a challenge to the election to be brought – particularly if the election passes. Discretion is the better part of valor in these situations.**

Q. Can a public employee, during his or her work hours, advocate that electors vote, as long as they don't advocate HOW to vote?

A. Yes, but read the next question and answer.

Q. Can a public employee, during work hours, advocate that electors vote by absentee ballot?

A. No. Advocating voting absentee is prohibited by a separate code section that makes it a simple misdemeanor for a public employee during work hours to solicit absentee ballots.

However, public employees may advise electors of the opportunity to vote absentee. The difference is between advising of an opportunity and advocacy.

Q. Can a public official or employee wear buttons during the work day which state AVote Yes@?

A. An employee, in their individual capacity, may choose to wear a button *as long as it is not usually prohibited by the public body's policy*. The public body, however, may not encourage or discourage the employee from wearing or not wearing buttons.

T-shirts are different than buttons. A public body may have a policy which prohibits employees from wearing shirts which contain political messages, advertising or logos. As a result, it is improper for an employee in his/her official capacity to wear a t-shirt either advocating for or against the ballot issue because of their public position of authority and because the public body has consistently enforced its policies, rules, and regulations regarding the wearing of t-shirts.

Q. Can an employee tell other employees to vote yes during a meeting held during the work day?

A. No. Public funds cannot be used to advocate for or against a ballot measure, accordingly the public body may not allow the use of any facilities or public funds to support the ballot issue. In this case, one employee would be using his/her position, as well as public facilities, to urge a vote yes position on the ballot issue which is impermissible.

Q. Can an official at a non-public body sponsored meeting held outside the normal work day urge a vote yes message at the meeting?

A. Yes, but read this answer. Officials and employees are prohibited from advocating for or against the ballot issue in their official capacity. However, officials and employees are free to work as individuals to advocate for or against the issue. The official or employee attending such meeting and urging a vote yes message should make it very clear that he/she is acting in an individual capacity and not as a public official or in their capacity as a public employee when urging such a message. *See May 24, 1982 letter opinion from Iowa Attorney General.*

Q. Can a public employee use the City's telephone, e-mail system, fax machine, or website to advocate a vote yes or no position on a ballot issue?

A. No, because this is a direct use of public funds to advocate for or against a ballot issue.

BOTTOM LINE: Material prepared and distributed by the public body must be neutral. Council members, officials and employees, acting as individuals, may promote or oppose a ballot measure. Given the potential for questions as to which "hat was worn" when action was taken, caution and discretion are always advised.

II. Questions and Answers Related to the Use of Public Funds and/or Resources by Individuals or Organizations other than Council Members, Officials or Employees

Q. Can campaign volunteers use public property to operate a phone bank, promote a position on the ballot measure, or to poll voters?

A. No. The Iowa Criminal Code specifically prohibits the use of government property to operate a phone bank or poll voters, to solicit funds, or to urge support for a ballot measure. *See Iowa Code § 721.2(8) (2017).*

Q. Can a public body-sponsored newsletter advocate a vote yes or no position?

A. No, that is direct use of public funds.

III. Questions and Answers Related to Identifying the Guidelines for Establishing a Citizens' Committee to Promote a Ballot Measure

Q. What are the governing rules for establishing an organization to support or oppose a public measure?

A. The Iowa Campaign Disclosure Act regulates these citizens' organizations. See Iowa Code Chapter 68A. In addition, the Iowa Ethics and Campaign Finance Council has established rules for the operation of campaign committees. The specific code sections of importance for ballot issue committees are:

- §68A.102 (Definitions)
- §68A.201 (Organization Statement)
- §68A.203 (Committee Treasurer)
- §68A.401 (Reports Filed with Board)
- §68A.402 (Disclosure Report Due Dates)
- §68A.402A (Information Disclosed on Reports)

Q. What is the difference between campaigning for a ballot issue and campaigning for an individual who is running for office?

A. One important distinction between ballot issues and the election of individuals to public office is that corporations may contribute to a ballot issue campaign, but not to the campaigns of individual candidates. *See* Iowa Code § 68A.605 (2017).

Q. Rule govern campaign committees, what happens if they are not followed?

A. When a campaign committee is formed, it is extremely important that the procedures are followed. Persons responsible for filing reports, preparing campaign materials, and other campaign activities must comply with the statutes and rules to avoid negative publicity, as well as reprimands or fines.

Q. What if several Council members join the same citizens' committee?

A. Council members who participate in a citizens' committee should keep in mind the requirements of the Open Meetings law. If a quorum of the Council is present at a meeting of the campaign committee, the provisions of Iowa Code chapter 21 (Official Meetings Must be Open to the Public) may apply.

CONCLUSION

If additional information is needed throughout this process I am happy to research and seek assistance as needed to properly guide staff actions in accordance with applicable laws.

cc: Michael C. Van Milligen, City Manager
Cori Burbach, Assistant City Manager
Teri Goodman, Assistant City Manager
Marie Ware, Leisure Services Manager
Randy Gehl, Public Information Officer
Gus Psihoyos, City Engineer
Steve Sampson Brown, Project Manager
HR Cook, Regional General Manager, SMG/Five Flags