Barnett, Wayne

From: Leman, Chris
Sent: Thursday, May 24, 2012 9:10 AM
To: Elections, Ethics
Cc: Barnett, Wayne; Slayton, Jeff; Erin Schultz; Adams, Anthony
Subject: Request for reconsideration of an erroneous sentence in the Library Levy Explanatory Statement adopted yesterday, and suggestion of a correct substitute sentence

To the Ethics and Elections Commission:

Please reconsider and amend the Library Levy Explanatory Statement that the Commission adopted yesterday. The problematic sentence is at the end of page 1:

"The funding provided through Proposition 1 would be spent in four categories:"

I request that the Commission replace this sentence with the following sentence:

"Section 5 of the levy ordinance states that 'Levy investments will be made in the following four categories of Library Services:'"

Reason for the requested change. The Commission's above language (which is taken from the original Explanatory Statement submitted by the City Attorney, a Statement which I timely appealed to the Commission) incorrectly informs the voters that the Levy proceeds can and will be spent only in the four categories listed immediately after (hours and access; collections; technology; and maintenance). However, the plain language of the Levy ordinance itself does not limit the Levy spending in this way. The sentence exactly quoted above from the Levy ordinance (and which I urge the Commission to substitute for its erroneous sentence) only promises that some of the Levy funds will go to the four categories. There is nothing in the Levy ordinance to prevent funds—even the lion's share of the Levy funds--to go elsewhere in the Library budget. Also, Section 4 of the Levy ordinance, entitled "Application of Levy Proceeds," states that "Unless otherwise directed by ordinance, Proceeds shall be deposited in the Library Levy Fund." The possibility of another ordinance directing the Levy proceeds elsewhere is another reason why the Commission would be misinforming the voters if it kept its current language on how the Levy proceeds "would be spent."

The Explanatory Statement is a sacred trust with the voters, and although errors are not unheard of, the Commission must ensure that no error in it will unfairly bias the statement for or against a result. The language which the Commission has chosen unfortunately biases the Statement in favor of passage by erroneously telling the voters (in language not taken from the Levy ordinance) how the Levy proceeds "would be spent." Given (1) that the Commission changed the Statement in other ways (thank you) from that which the City Attorney had originally submitted; and (2) that the Commission rejected two possible substitute versions from the City Attorney that both myself (co-author of the "no" statement in the voters' pamphlet) and Ross Baker (a "pro" campaign representative) said in yesterday's testimony that we found acceptable, the Commission must bend over backward to get it right for the voters.

The best correction for the Commission's error is simply to delete the erroneous sentence, and replace it with a sentence exactly quoting the Levy ordinance language itself, as suggested above. There is still time for the Commission to approve an Explanatory Statement that is accurate, and I hope that it does so.

Sincerely,

Chris Leman