



THE

CITY of PELLA

STAFF MEMO TO COUNCIL

ITEM NO: K-1
 SUBJECT: Library Board of Trustees Drafted Ordinance
 DATE: April 5, 2022

BACKGROUND:

The purpose of this Policy and Planning session is to discuss a draft ordinance relating to the powers and duties of the Library Board of Trustees. As background, an elected official has requested consideration of this ordinance which is intended to modify the organizational structure of the Pella Public Library to be in alignment with how other city departments are structured. As Council is aware, Chapter 22 of the Pella City Code provides the Library Board of Trustees with the authority to direct and control all affairs of the library. The Pella Public Library is the only city department which is currently under the authority of a separate board. The city's other departments report to the City Administrator who subsequently reports to the City Council. As a result, the City Council retains the exclusive control and authority for all departments except for the library. The drafted ordinance was largely modeled after the City of Clive's library in which the Library Board of Trustees does not have the authority to direct and control all affairs of the library.

While this ordinance would modify the authority of the Library Board of Trustees, it does not change any First Amendment protections that exist for library materials and patrons. If the City Council were to exercise more control over the library, it would be restricted by the same Constitutional protections that currently apply to the Library Board of Trustees regarding removal or relocation of library materials.

Listed below, and on the following page, is an overview of the drafted ordinance. It is important to note that the drafted ordinance has been reviewed by the city's legal counsel.

Key Terms of the Drafted Ordinance

The drafted ordinance maintains most sections of the current City Code Chapter 22 with the exception of the following changes:

Section 22.05 Powers and Duties

The intention of the proposed modifications in this section is to change the organization structure of the library to be similar to other city departments. A summary of the key changes are listed below and on the following page:

- **Charge of Affairs.** Under the draft ordinance, the Library Board of Trustees would no longer have exclusive control of the affairs of the library. The ordinance grants the Library Board of Trustees the authority to adopt policies for use of the library; however, these policies could be changed by the City Council upon the passage of a resolution.
- **Hiring of Personnel.** Under the current City Code, the Library Board of Trustees has the authority to employ a librarian who is authorized to employ assistants and employees of the library. Under City Code, the Library Director also reports to the City Administrator. Traditionally, the Library Board of Trustees and the City Administrator have worked well together in overseeing the Library Director and library staff. The proposed ordinance would establish that the Library Director would report to the City Administrator; however, the ordinance would also allow the Library Board of Trustees to provide recommendations and advice to the City Administrator regarding the control and supervision of the library staff, including the Library Director.

- **Expenditures.** City Code currently provides the Library Board of Trustees exclusive control of the expenditure of all funds allocated for library purposes by the City Council. The proposed ordinance does not provide this authority to the Library Board of Trustees.

Section 22.06 Contracting with Other Libraries

Currently, the Library Board of Trustees has the authority to contract with other libraries in accordance with Iowa Code. This section was revised to instead allow the Library Board of Trustees to make recommendations to the City Council on contracts with other libraries; this is consistent with other city departments.

Section 22.08 Expenditures

The current City Code states that library expenditures “shall be paid for only on orders of the Board, signed by its President and Librarian.” This section has been deleted within the drafted ordinance, as the City Council has authority for approving all other city department expenditures.

Section 22.09 Annual Report

This section is addressed in section 22.05(9) of the drafted ordinance.

Section 22.10 Injury to Books or Property and Section 22.11 Theft

These sections have been renumbered to 22.08 and 22.09 within the drafted ordinance.

Section 22.10 Appeal Process

This is a new section proposed to allow any person aggrieved by a decision of the Library Board of Trustees to file an appeal with the City Council.

Summary

It is important to note that the attached drafted ordinance would require a public referendum before it could be adopted by the City Council; therefore, staff is seeking direction from Council on this issue as it applies to the following options:

1. Proceed with a public referendum for the drafted ordinance.
2. Suggest changes to the drafted ordinance or request staff conducts further research regarding the drafted ordinance.
3. No proposed changes to the current City Code Chapter 22 Library Board of Trustees.

ATTACHMENTS: Current City Code Chapter 22, Drafted Library Board of Trustees Ordinance
 REPORT PREPARED BY: City Administration
 REVIEWED BY: City Administrator, City Attorney, Library Director, City Clerk
 RECOMMENDATION: Seeking Council direction

CHAPTER 22

LIBRARY BOARD OF TRUSTEES

22.01 Public Library	22.07 Nonresident Use
22.02 Library Trustees	22.08 Expenditures
22.03 Qualifications of Trustees	22.09 Annual Report
22.04 Organization of the Board	22.10 Injury to Books or Property
22.05 Powers and Duties	22.11 Theft
22.06 Contracting with Other Libraries	

22.01 PUBLIC LIBRARY.

The public library for the City is known as the Pella Public Library. It is referred to in this chapter as the Library.

22.02 LIBRARY TRUSTEES.

The Board of Trustees of the Library, hereinafter referred to as the Board, consists of six (6) resident members and one nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

22.03 QUALIFICATIONS OF TRUSTEES.

All members of the Board shall be bona fide citizens and residents of the City except one member who may reside in the Pella Community School District within rural Marion County. All members shall be over the age of eighteen (18) years.

22.04 ORGANIZATION OF THE BOARD.

The organization of the Board shall be as follows:

1. Term of Office. All appointments to the Board shall be for three (3) years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every year of one-third (1/3) the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

22.05 POWERS AND DUTIES.

The Board shall have and exercise the following powers and duties:

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including

finances and rentals collected under the rules of the Board.

10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.

11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City on behalf of the Library.

(Code of Iowa, Ch. 661)

12. Record of Proceedings. To keep a record of its proceedings.

13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

22.06 CONTRACTING WITH OTHER LIBRARIES.

The Board has power to contract with other libraries in accordance with the following:

1. Contracting. The Board may contract with any other boards of trustees of free public libraries, with any other city, school corporation, private or semiprivate organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the Library by their respective residents.

(Code of Iowa, Sec. 392.5 & Ch. 28E)

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five percent (5%) in number of the electors who voted for governor in the territory of the contracting party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party seeking to terminate the contract.

22.07 NONRESIDENT USE.

The Board may authorize the use of the Library by persons not residents of the City or County in any one or more of the following ways:

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.

2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.

3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.

4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

22.08 EXPENDITURES.

All money appropriated by the Council for the operation and maintenance of the Library shall be set aside in an account for the Library. Expenditures shall be paid for only on orders of the Board, signed by its President and Librarian.

(Code of Iowa, Sec. 384.20 & 392.5)

22.09 ANNUAL REPORT.

The Board shall make a report to the Council immediately after the close of the fiscal year. This report shall contain statements as to the condition of the Library, the number of books added, the number circulated, the amount of fines collected, and the amount of money expended in the maintenance of the Library during the year, together with such further information as may be required by the Council.

22.10 INJURY TO BOOKS OR PROPERTY.

It is unlawful for a person willfully, maliciously or wantonly to tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to the Library or reading room.

(Code of Iowa, Sec. 716.1)

22.11 THEFT.

No person shall take possession or control of property of the Library with the intent to deprive the Library thereof.

(Code of Iowa, Sec. 714.1)

[The next page is 107]

ORDINANCE NO. _____**AN ORDINANCE REPEALING AND REPLACING CHAPTER 22 LIBRARY BOARD OF TRUSTEES**

Be it enacted by the City Council of the City of Pella, Iowa:

SECTION 1. City Code Chapter 22 is hereby amended by repealing the chapter in its entirety and replacing it with the following :

CHAPTER 22 LIBRARY BOARD OF TRUSTEES

22.01 Public Library	22.06 Contracting with Other Libraries
22.02 Library Trustees	22.07 Nonresident Use
22.03 Qualifications of Trustees	22.08 Injury to Books or Property
22.04 Organization of the Board	22.09 Theft
22.05 Powers and Duties	22.10 Appeal Process

22.01 PUBLIC LIBRARY.

The public library for the City is known as the Pella Public Library. It is referred to in this chapter as the Library.

22.02 LIBRARY TRUSTEES.

The Board of Trustees of the Library, hereinafter referred to as the Board, consists of six (6) resident members and one (1) nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

22.03 QUALIFICATIONS OF TRUSTEES.

All members of the Board shall be bona fide citizens and residents of the City except one member who may reside in the Pella Community School District within rural Marion County. All members shall be over the age of eighteen (18) years.

22.04 ORGANIZATION OF THE BOARD.

The organization of the Board shall be as follows:

1. Term of Office. All appointments to the Board shall be for three (3) years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every year of one-third (1/3) the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

22.05 POWERS AND DUTIES.

The Board shall have and exercise the following powers and duties:

1. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. The Board may adopt, amend or repeal bylaws governing the activities of the board and relating to its duties.
3. The Board shall develop and oversee plans for the development and maintenance of the public library facilities, furnishings and fixtures.
4. The Board shall provide recommendations and advice to the City Administrator regarding control and supervision of the public library staff, including the Library Director.
5. The Board shall have the authority to adopt, amend or repeal policies, rules and regulations, not inconsistent with law, for the use of the public library facilities and resources, including establishing and enforcing penalties for violations of the rules and regulations regarding the public's use of the library. Such policies adopted by the Board may be amended or repealed by resolution of the Pella City Council.
6. The Board shall provide recommendations and advice to the Library Director regarding selecting and purchasing books, pamphlets, magazines, periodicals, papers, maps, journals, audiovisual matters, software, other library materials, furniture, fixtures, computer equipment, stationery and supplies for the library within budgetary limits.
7. The Board shall have the authority to authorize the use of the library by nonresidents of the city and to fix charges therefor.
8. The Board shall have authority to accept gifts of real property, personal property or mixed property, and devises and bequests, including trust funds, on behalf of the library; to coordinate with the City Administrator for the establishment of a special trust and agency account, to determine, consistent with the city's annual budget process, the expenditures of the funds in the special trust and agency account for the improvement of the library; and to enforce the performance of conditions on gifts, devises and bequests accepted.
9. The Library Director, in consultation with the Board, shall prepare an annual budget request for the library's operation, based upon the municipal fiscal year, and submit the same to the City Administrator for review and incorporation into the City Administrator's budget request prior to being submitted to the Council.
10. Immediately following the close of each municipal fiscal year, the Board shall make an annual written report to the Council which shall contain a statement of the Board's activities during the preceeding year, statements regarding the condition of the Library, the number of books and other materials added thereto, including statistics on patron acquisition requests approved and denied, the number circulated, the amount of fines collected, and recommendations for proposed activities for the coming year.
11. To keep a record of its proceedings.
12. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

22.06 CONTRACTING WITH OTHER LIBRARIES.

The Board may recommend contracting with any other boards of trustees of free public libraries of any other city, school organization, institution of higher learning, township, or county, or with the trustees of any county library district for the use of the library by their respective residents. Any such contracts shall be approved by the City Council.

22.07 NONRESIDENT USE.

The Board may authorize the use of the Library by persons not residents of the City or County in any one or more of the following ways:

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.
2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.
3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.
4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

22.08 INJURY TO BOOKS OR PROPERTY.

It is unlawful for a person willfully, maliciously or wantonly to tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to the Library or reading room.

(Code of Iowa, Sec. 716.1)

22.09 THEFT.

No person shall take possession or control of property of the Library with the intent to deprive the Library thereof.

(Code of Iowa, Sec. 714.1)

22.10 APPEAL PROCESS.

Any person aggrieved by a decision of the Board may file an appeal with the Council within thirty (30) days of the action appealed from.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

First Reading: _____
Second Reading: _____
Third Reading: _____

Passed and adopted this _____ day of _____, 2022.

Donald DeWaard, Mayor

ATTEST:

Mandy Smith, City Clerk

I, Mandy Smith, City Clerk of the City of Pella, Iowa, do hereby certify that the foregoing ordinance was passed and approved by the City Council of the City of Pella on the ____ day of _____, 2022 and was published in the Des Moines Register, a newspaper of general circulation in the said City of Pella on the ____ day of _____, 2022.

Mandy Smith, City Clerk

