

December 4, 1961



Mr. Arthur V. Burrowes  
First Vice-President  
St. Joseph Library Board  
2925 Mitchell  
St. Joseph, Missouri

Dear Mr. Burrowes:

The St. Joseph Library Board has requested that I render an official opinion on the effect of certain aspects of the new Charter of the City of St. Joseph as it relates to the Library Board's structure.

Copy of that request is attached hereto and, because it shows that you initiated the motion upon which the request was made, I direct my reply to you.

So as to minimize the opportunity for misunderstanding I have paraphrased the questions below and it is to those paraphrased queries that my answers are directed.

First, you wonder if you, as a unit of government of the city, have the right to request an official legal opinion of me.

This is not a question of your right to request but of my right to answer in view of the prerogatives of the St. Joseph City Attorney. Bearing that in mind I will state that the Attorney General is required by constitution and statute to represent certain state officers and institutions, rendering to them such legal assistance as they may require. These do not include cities and city officials or city institutions.

However, since you receive state library funds and since the continued legality of the disbursement of such funds to you are in question, I deem it advisable to express to you what I believe the state's position should be in that respect.

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You are concerned as to whether your Library Board shall consist of the five members generally provided for in Section 16.1 of the new charter or of nine members as set out specifically in Chapter 182, RSMo 1959.

The pertinent part of Section 16.1 of the charter states:

"Except as otherwise specifically provided by the laws of Missouri or this charter, all boards and commissions established or authorized by this charter shall consist of five members . . ."

The charter establishes a library board in Section 16.6, which further provides at 16.6(4):

"The library board shall, notwithstanding any provisions of this charter, be constituted and appointed and have such powers and duties as are now prescribed by the General Statutes for library boards in all cities of this state."

Thus the charter defers to state statute for the composition of boards and commissions generally and for the library board specifically where the statutes specifically provide for a number of members other than five.

In view of the section of the charter last above referred to it is clear that it is intended that the general state statutes control. According to the general statute establishing library boards (§ 182.170, RSMo 1959) they shall consist of nine members.

You are further troubled about continuing the present nine members in office.

This is controlled by Section 20.19 of the charter as follows:

"The members of all boards now provided for in the City and continued by this charter shall remain in office until the end of their present term or three years from the adoption of this charter, whichever shall first occur, when their successors shall be appointed in accordance with this charter. \* \* \*"

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The nine board members now serving were appointed under 182.320, RSMo 1959. Their terms are for three years, three of which expire on June first of each year. Therefore, none of the incumbents can be serving a term to extend beyond June first of 1964. Since the three year time limit in Section 20.19 of the charter runs from the date of the adoption of the charter which was subsequent to June first 1961 there is no conflict between it and the term of any member now serving.

In view of all of the foregoing it would appear that when the charter of the City of St. Joseph goes into effect next April the library board should consist of nine members.

At such time the nine members serving should continue in office until the expiration of their respective terms.

Although I am not permitted to render an official opinion to you and this letter is not an official opinion, I will advise that you should have no trouble in receiving state funds for your library system due to the composition of your library board if the above suggestions are followed.

Yours very truly,

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THOMAS F. EAGLETON  
Attorney General

HLM:BJ