
M E M O R A N D U M

DATE: October 17, 2012
TO: City Council
FROM: Neil Lindberg
RE: Proposed Opinion Question Ordinance

POTENTIAL MOTIONS

- I move that the Council adopt an ordinance enacting Chapter 2.69, *Salt Lake City Code*, authorizing opinion questions to be submitted to the voters of Salt Lake City and establishing related procedures.
- I move that the Council adopt an ordinance enacting Chapter 2.69, *Salt Lake City Code*, authorizing opinion questions to be submitted to the voters of Salt Lake City and establishing related procedures, but without the newspaper publication requirement in Section 2.69.030.C.3.
- I move that the Council not adopt an ordinance enacting Chapter 2.69, *Salt Lake City Code*, authorizing opinion questions to be submitted to the voters of Salt Lake City and establishing related procedures.
- I move that the Council defer action to a future Council meeting.

STATUS UPDATE

At the October 9, 2012 Work Session, the City Council considered the following amendments proposed by Move to Amend. The Council took a straw poll on each issue to ascertain whether the draft ordinance should be amended accordingly. The attached excerpt from the draft minutes of the meeting has more detailed results for each straw poll.

1. Require a voter information pamphlet with arguments for and against a particular question, which would appear on the ballot (whether online or in printed form). *SUPPORT*
2. Require the City Recorder to act on a request within 60 days of receipt. *SUPPORT*
3. Require the City Recorder to publish an opinion short title and number in at least two Salt Lake County newspapers, including a locally-owned newspaper if one exists. *SUPPORT following standard City notice procedures, including publication on Utah Public Notice Website. The Council was evenly divided (3-3) about whether to require newspaper notice. (Council Member Simonsen was excused.) The revised ordinance includes newspaper notice as an option. However, it does not include the local newspaper requirement because it likely would be an unlawful local preference.*
4. Require the Council to approve a resolution establishing the time and manner of voting within 60 days after public notice of the opinion question is given. *SUPPORT*
5. Include a public review of the vote canvass and require the City Council endorsement by a formal vote. *SUPPORT public canvass but OPPOSE endorsement*

6. Require the City Attorney to prepare a formal memorandum analyzing actions the City could take to effectuate the public desire evidenced in an opinion question outcome. *OPPOSE*
7. Reduce the signature requirement to one-half the number of signatures required for an initiative. *OPPOSE*
8. Allow all residents, not just legal voters, to respond to an opinion question. *OPPOSE*

The attached ordinance incorporates the straw poll results.

ISSUES/QUESTIONS FOR CONSIDERATION

- How does the opinion question ordinance relate to the City's open government policy?
 - Supporters commenting on Open City Hall have said the ordinance provides a good way to improve transparency and allow citizens voices to be heard.
- Should alternatives to an opinion question ordinance be explored?
 - Possibilities include conducting an opinion poll or adopting a resolution declaring Council support for a particular proposition.
- Is the cost worth the benefit of formally (rather than informally) obtaining responses to opinion questions?
 - Since an opinion question will not result in a law, will some eligible respondents decline to participate, thus potentially leading to a result that is misleading?
 - Should opinion questions be initiated only by elected representatives?
- How does the Council want to fund this program?
 - Establish an annual appropriation to non-departmental for use in the event a petition is received?
 - Require that costs be identified up front and processed in a budget opening before the expenses are incurred (before issues go to the voters)?
 - Require that costs be identified mid-way through the process and informally authorized by the Council in advance of a budget opening to expedite the process?
 - Other?
- Does the Council want to establish a point in the process at which the cost of the process for each opinion question is calculated for budget purposes?
 - Should projected cost be calculated sufficiently early in the process so future Council members will be aware of them?

ATTACHMENTS

- Clean, legislative, and compare versions of proposed opinion question ordinance (October 17, 2012)
- Excerpt from draft Council Work Session minutes (October 9, 2012)
- City Recorder memorandum (September 10, 2012)
- Move to Amend letter (September 7, 2012) requesting ordinance amendments
- Open City Hall comments (October 17, 2012)

The following information was provided previously in a staff memo dated August 8, 2012.

BACKGROUND

The Utah Constitution gives the people power to adopt directly new state and local laws (initiatives) and to accept or reject laws passed by the state legislature or a local legislative body (referendums). Numerous and comprehensive provisions of the Utah Election Code (Title 20A) implement these state constitutional powers.

On May 15, 2012, a group of people, known as Move to Amend, submitted to the City Recorder an initiative petition relating to a proposed “Resolution of Support for a Constitutional Amendment to Declare that Corporations are Not People.” Although the petition had the statutorily required number of signatures, the City Recorder, on advice of the City Attorney’s Office, rejected it because the petition did not qualify as a proper initiative under Utah law. As explained in a publicly released legal opinion, even if the initiative was approved by the voters, it would only express an opinion and would not result in legislation or a local law. The City Recorder thus rejected the initiative petition as legally insufficient.

Following the City’s rejection, one of the petitioners requested the Utah Supreme Court to issue an extraordinary writ compelling the City to place the initiative on the ballot. One week after hearing oral argument, the Court denied the request and said it would later issue a written opinion regarding its decision.

AUTHORITY TO ADOPT A LOCAL OPINION ORDINANCE

Municipal governments have considerable authority to adopt ordinances under the “public welfare” power granted to municipalities in Section 10-8-84(1) of the Utah Code:

(1) The municipal legislative body may pass all ordinances and rules, and make all regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and duties conferred by this chapter, and as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city.

Utah courts have broadly construed the authority conferred by this section ever since the Utah Supreme Court repudiated the Dillon Rule of strict statutory construction in *State v. Hutchinson*, 624 P.2d 1116 (Utah 1980). *Hutchinson* declared that the courts will not interfere with ordinances adopted pursuant to the general welfare power unless they are arbitrary, directly prohibited by, or inconsistent with state or federal laws.

Chapter 16a of Title 36 of the Utah Code authorizes the Utah Legislature to submit statewide opinion questions to the voters. Although the Code does not have any corresponding provisions that specifically permit or prohibit local opinion questions to be submitted to the voters, various provisions of the Code may be read to authorize them in conjunction with a municipal general election.

- Section 20A-1-102(6) defines a “ballot proposition” as “a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection *including*:
 - (a) an opinion question specifically authorized by the Legislature;
 - (b) a constitutional amendment;
 - (c) an initiative;
 - (d) a referendum;
 - (e) a bond proposition;
 - (f) a judicial retention question;
 - (g) an incorporation of a city or town; or
 - (h) any other ballot question specifically authorized by the Legislature.”

The word “including” may be read as limiting ballot propositions to only the things listed *or* as permitting not only the things listed but anything else authorized by law.

- Section 20A-1-202(2)(b)(ii) says a ballot proposition authorized by the Utah Code may be submitted to the voters for approval or rejection. This section thus may be read as authorizing opinion questions based on the Council’s exercise of the general welfare power to adopt an ordinance allowing them.
- Section 20A-1-204(d)(ii) says “nothing in this section prohibits a local government from submitting a matter to the voters at the regular municipal election if authorized by law.”

Accordingly, under a broad reading of the Election Code and Section 10-8-84(1), the City Council may adopt an ordinance authorizing voter opinion questions to be placed on the ballot. Other provisions of the Election Code limit when this may be accomplished. Nothing may be included in the November 2012 election because to do so would require a local special election. However, Section 20A-7-203(5) explicitly limits such elections to only certain specified matters, none of which includes a local opinion question. Thus even if the Council adopts an ordinance, an opinion question could not be presented until the next municipal general election in November 2013.

Alternatively, the Council could adopt the proposed ordinance and the Administration could conduct a non-traditional election by mail, telephone or online. The FY 2012-13 budget includes \$67,000 that may be used for this matter. The Administration estimates that up to \$40,000 more may be needed. If so, a supplemental appropriation would be requested as part of Budget Amendment No. 1 which is expected in October or November. However, if the City performs certain functions, costs may be reduced. See the attached analysis regarding the cost of e-voting.

DRAFT – OCTOBER 17, 2012

SALT LAKE CITY ORDINANCE
No. ___ of 2012

(Authorizing opinion questions to be submitted to the voters)

AN ORDINANCE ENACTING CHAPTER 2.69 OF THE *SALT LAKE CITY CODE* AUTHORIZING OPINION QUESTIONS TO BE SUBMITTED TO THE VOTERS AND ESTABLISHING RELATED PROCEDURES.

WHEREAS, Section 10-8-84 of the Utah Code (known as the “general welfare clause”), among other things, authorizes the City Council to pass all ordinances, not repugnant to law, as are necessary and proper to promote the prosperity, peace and good order, comfort, and convenience of the city and its inhabitants; and

WHEREAS, in *State v. Hutchinson*, 624 P.2d, 1116, (Utah 1980), the Utah Supreme Court held that when the state has granted general welfare power to local governments, the court will not interfere with ordinances adopted pursuant to that power unless they are arbitrary, directly prohibited by, or inconsistent with state or federal laws; and

WHEREAS, Chapter 16a of Title 36 of the Utah Code authorizes the Utah Legislature to submit statewide opinion questions to the voters; and

WHEREAS, the Utah Code contains no corresponding provision authorizing or prohibiting a local opinion question to be submitted to the voters; and

WHEREAS, it is proposed that Chapter 2.69, *Salt Lake City Code*, be enacted to allow opinion questions to be submitted to the voters of Salt Lake City; and

WHEREAS, the City Council finds (i) formal expressions of opinion by the voters of Salt Lake City on matters of concern to the community can be an important part of the democratic process whether or not they have power to effectuate such declarations by binding legislation and

DRAFT – OCTOBER 17, 2012

(ii) adoption of this ordinance reasonably furthers the health, safety, and general welfare of the citizens of Salt Lake City.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Chapter 2.69, *Salt Lake City Code*, shall be, and hereby is, enacted to read as follows:

Chapter 2.69
LOCAL OPINION QUESTIONS

2.69.010: PURPOSE:

The purpose of this chapter is to establish a process whereby non-binding opinion questions may be submitted to the legal voters of Salt Lake City.

2.69.020: SUBMISSION OF OPINION QUESTIONS TO THE VOTERS:

A. A non-binding opinion question may be submitted to the legal voters of Salt Lake City as provided in Subsection A.1 or A.2 of this section.

1. If an initiative proposed pursuant to Section 20A-7-501 et seq., Utah Code Annotated, as amended or its successor, is found to be legally sufficient based on the number of legal signatures obtained, but is determined by the city to be invalid because the subject matter of the initiative, if passed, would not result in a city law, the sponsors of the initiative may request that the city recorder submit the matter to the legal voters of the city as an opinion question as provided in this chapter.

2. The city council may, by resolution, request that an opinion question be submitted to the legal voters of the city as provided in this chapter. The resolution shall include the language of the opinion question as it will be submitted to the voters.

B. If a nonbinding opinion question is initiated as provided in Subsection A of this section, the city recorder shall take action necessary to submit the opinion question to the legal voters of Salt Lake City as provided in this chapter.

1. If the request is made pursuant to Subsection A.1, the opinion question submitted to the voters shall be as shown in the initiative petition circulated by the petition sponsors.

2. If the request is made pursuant to Subsection A.2, the city recorder shall conform to the requirements of the resolution adopted as provided in that subsection.

C. The mayor may establish additional requirements not in conflict with the provisions of this chapter to facilitate submission of opinion questions to the voters.

2.69.030: OPINION QUESTION NUMBER, SHORT TITLE, AND NOTICE:

Within sixty (60) days after a nonbinding opinion question is initiated as provided in Section 2.69.020 of this chapter, the city recorder shall:

A. Give the opinion question a number;

B. Prepare a short title that summarizes the subject matter of the opinion question; and

C. Cause the opinion question, its number, and short title to be shown on a ballot, as provided in Section 2.69.050 of this chapter, which shall be published:

1. On the city's website;

2. On the Utah Public Notice Website created in Section 63F-1-701, Utah Code Annotated; and

3. In at least two (2) Salt Lake County newspapers.

2.69.040: VOTER INFORMATION PAMPHLET:

A. The city recorder shall prepare a voter information pamphlet that meets the requirements of this section. The pamphlet shall be made available to the voters by mail, electronically, or any other method or combination of methods designed to give all voters access to the pamphlet at least twenty (20) days prior to the time when an opinion question will be submitted to the voters.

B. Within twenty (20) days after notice of an opinion question is published as provided in Section 2.69.030 of this chapter a statement, not exceeding five hundred (500) words supporting or opposing the opinion question, may be submitted to the city recorder by:

1. The sponsors of an opinion question initiated as provided in Section 2.69.020 of this chapter, and

2. A person opposed to the opinion question. If more than one person

submits a statement in opposition, the city recorder shall, by drawing lots, select an opposition statement.

3. Any statement submitted shall identify the author thereof.

C. The city recorder shall include the statements provided pursuant to Subsection B of this section in the voter information pamphlet.

2.69.050: BALLOT FORM:

A. An opinion question ballot shall contain:

1. A number and short title;

2. The text of the opinion question; and

3. a. The words "FOR" and "AGAINST," each word presented with an adjacent square in which the voter may indicate the voter's choice; or

b. All possible responses to the opinion question, each response presented with an adjacent square in which the voter may indicate the voter's choice.

B. Each ballot shall be identical notwithstanding whether it is presented to a voter in print or electronic form.

2.69.060: TIME AND MANNER OF VOTING:

A. Within sixty (60) days after public notice is published as provided in Section 2.69.030 of this chapter, the city council shall, by resolution, establish the time when an opinion question will be submitted to the voters and the method by which it will be accomplished. Such methods may include voting by mail, telephone, electronically, or a combination thereof.

B. The recorder shall submit the opinion question ballot to the voters as provided in the resolution of the city council.

2.69.070: CANVASS OF RETURNS:

A. No later than fourteen (14) days after the close of voting on an opinion question, the city council shall meet at the usual place of meeting to canvass the returns from an opinion question. The council shall declare the results of the opinion question submitted, including the total number of votes for and against the question.

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B. The city recorder shall make a certified abstract of the record of the canvassers detailing the votes cast on the opinion question.

C. The mayor may resolve any issues relating to the canvassing process that are not governed by this section.

SECTION 3. This ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this __ day of _____, 2012.

CHAIRPERSON

ATTEST:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2012.
Published: _____

Opinion Question ordinance (clean 10-17-12).doc

<p>APPROVED AS TO FORM</p> <p>Date: _____</p> <p>By: _____</p>

SALT LAKE CITY ORDINANCE
No. ____ of 2012

(Authorizing opinion questions to be submitted to the voters)

AN ORDINANCE ENACTING CHAPTER 2.69 OF THE *SALT LAKE CITY CODE* AUTHORIZING OPINION QUESTIONS TO BE SUBMITTED TO THE VOTERS AND ESTABLISHING RELATED PROCEDURES.

WHEREAS, Section 10-8-84 of the Utah Code (known as the “general welfare clause”), among other things, authorizes the City Council to pass all ordinances, not repugnant to law, as are necessary and proper to promote the prosperity, peace and good order, comfort, and convenience of the city and its inhabitants; and

WHEREAS, in *State v. Hutchinson*, 624 P.2d, 1116, (Utah 1980), the Utah Supreme Court held that when the state has granted general welfare power to local governments, the court will not interfere with ordinances adopted pursuant to that power unless they are arbitrary, directly prohibited by, or inconsistent with state or federal laws; and

WHEREAS, Chapter 16a of Title 36 of the Utah Code authorizes the Utah Legislature to submit statewide opinion questions to the voters; and

WHEREAS, the Utah Code contains no corresponding provision authorizing or prohibiting a local opinion question to be submitted to the voters; and

WHEREAS, it is proposed that Chapter 2.69, *Salt Lake City Code*, be enacted to allow opinion questions to be submitted to the voters of Salt Lake City; and

WHEREAS, the City Council finds (i) formal expressions of opinion by the voters of Salt Lake City on matters of concern to the community can be an important part of the democratic process whether or not they have power to effectuate such declarations by binding legislation and

(ii) adoption of this ordinance reasonably furthers the health, safety, and general welfare of the citizens of Salt Lake City.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Chapter 2.69, *Salt Lake City Code*, shall be, and hereby is, enacted to read as follows:

Chapter 2.69
LOCAL OPINION QUESTIONS

2.69.010: PURPOSE:

The purpose of this chapter is to establish a process whereby non-binding opinion questions may be submitted to the legal voters of Salt Lake City.

2.69.020: SUBMISSION OF OPINION QUESTIONS TO THE VOTERS:

A. A non-binding opinion question may be submitted to the legal voters of Salt Lake City as provided in Subsection A.1 or A.2 of this section.

1. If an initiative proposed pursuant to Section 20A-7-501 et seq., Utah Code Annotated, as amended or its successor, is found to be legally sufficient based on the number of legal signatures obtained, but is determined by the city to be invalid because the subject matter of the initiative, if passed, would not result in a city law, the sponsors of the initiative may request that the city recorder submit the matter to the legal voters of the city as an opinion question as provided in this chapter.

2. The city council may, by resolution, request that an opinion question be submitted to the legal voters of the city as provided in this chapter. The resolution shall include the language of the opinion question as it will be submitted to the voters.

B. If a nonbinding opinion question is initiated as provided in Subsection A of this section, the city recorder shall take action necessary to submit the opinion question to the legal voters of Salt Lake City as provided in this chapter.

1. If the request is made pursuant to Subsection A.1, the opinion question submitted to the voters shall be as shown in the initiative petition circulated by the petition sponsors.

2. If the request is made pursuant to Subsection A.2, the city recorder shall conform to the requirements of the resolution adopted as provided in that subsection.

C. The mayor may establish additional requirements not in conflict with the provisions of this chapter to facilitate submission of opinion questions to the voters.

2.69.030: OPINION QUESTION NUMBER, SHORT TITLE, AND NOTICE:

Within sixty (60) days after a nonbinding opinion question is initiated as provided in Section 2.69.020 of this chapter, the city recorder shall:

A. Give the opinion question a number;

B. Prepare a short title that summarizes the subject matter of the opinion question;
and

C. Cause the opinion question, its number, and short title to be shown on a ballot, as provided in Section 2.69.050 of this chapter, which shall be published:

1. On the city's website;

2. On the Utah Public Notice Website created in Section 63F-1-701, Utah Code Annotated; and

3. In at least two (2) Salt Lake County newspapers.

2.69.040: VOTER INFORMATION PAMPHLET:

A. The city recorder shall prepare a voter information pamphlet that meets the requirements of this section. The pamphlet shall be made available to the voters by mail, electronically, or any other method or combination of methods designed to give all voters access to the pamphlet at least twenty (20) days prior to the time when an opinion question will be submitted to the voters.

B. Within twenty (20) days after notice of an opinion question is published as provided in Section 2.69.030 of this chapter a statement, not exceeding five hundred (500) words supporting or opposing the opinion question, may be submitted to the city recorder by:

1. The sponsors of an opinion question initiated as provided in Section 2.69.020 of this chapter, and

2. A person opposed to the opinion question. If more than one person submits a statement in opposition, the city recorder shall, by drawing lots, select an opposition statement.

3. Any statement submitted shall identify the author thereof.

C. The city recorder shall include the statements provided pursuant to Subsection B of this section in the voter information pamphlet.

2.69.050: BALLOT FORM:

A. An opinion question ballot shall contain:

1. A number and short title;

2. The text of the opinion question; and

3. a. The words "FOR" and "AGAINST," each word presented with an adjacent square in which the voter may indicate the voter's choice; or

b. All possible responses to the opinion question, each response presented with an adjacent square in which the voter may indicate the voter's choice.

B. Each ballot shall be identical notwithstanding whether it is presented to a voter in print or electronic form.

2.69.060: TIME AND MANNER OF VOTING:

A. Within sixty (60) days after public notice is published as provided in Section 2.69.030 of this chapter, the city council shall, by resolution, establish the time when an opinion question will be submitted to the voters and the method by which it will be accomplished. Such methods may include voting by mail, telephone, electronically, or a combination thereof.

B. The recorder shall submit the opinion question ballot to the voters as provided in the resolution of the city council.

2.69.070: CANVASS OF RETURNS:

A. No later than fourteen (14) days after the close of voting on an opinion question, the city council shall meet at the usual place of meeting to canvass the returns

from an opinion question. The council shall declare the results of the opinion question submitted, including the total number of votes for and against the question.

B. The city recorder shall make a certified abstract of the record of the canvassers detailing the votes cast on the opinion question.

C. The mayor may resolve any issues relating to the canvassing process that are not governed by this section.

SECTION 3. This ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this ___ day of _____, 2012.

CHAIRPERSON

ATTEST:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2012.

Published: _____

DRAFT – COMPARED TO AUGUST 8, 2012 VERSION
OCTOBER 17, 2012

SALT LAKE CITY ORDINANCE
No. ____ of 2012

(Authorizing opinion questions to be submitted to the voters)

AN ORDINANCE ENACTING CHAPTER 2.69 OF THE *SALT LAKE CITY CODE* AUTHORIZING OPINION QUESTIONS TO BE SUBMITTED TO THE VOTERS AND ESTABLISHING RELATED PROCEDURES.

WHEREAS, Section 10-8-84 of the Utah Code (known as the “general welfare clause”), among other things, authorizes the City Council to pass all ordinances, not repugnant to law, as are necessary and proper to promote the prosperity, peace and good order, comfort, and convenience of the city and its inhabitants; and

WHEREAS, in *State v. Hutchinson*, 624 P.2d, 1116, (Utah 1980), the Utah Supreme Court held that when the state has granted general welfare power to local governments, the court will not interfere with ordinances adopted pursuant to that power unless they are arbitrary, directly prohibited by, or inconsistent with state or federal laws; and

WHEREAS, Chapter 16a of Title 36 of the Utah Code authorizes the Utah Legislature to submit statewide opinion questions to the voters; and

WHEREAS, the Utah Code contains no corresponding provision authorizing or prohibiting a local opinion question to be submitted to the voters; and

WHEREAS, it is proposed that Chapter 2.69, *Salt Lake City Code*, be enacted to allow opinion questions to be submitted to the voters of Salt Lake City; and

WHEREAS, the City Council finds (i) formal expressions of opinion by the voters of Salt Lake City on matters of concern to the community can be an important part of the democratic process whether or not they have power to effectuate such declarations by binding legislation and

(ii) adoption of this ordinance reasonably furthers the health, safety, and general welfare of the citizens of Salt Lake City.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Chapter 2.69, *Salt Lake City Code*, shall be, and hereby is, enacted to read as follows:

Chapter 2.69
LOCAL OPINION QUESTIONS

2.69.010: PURPOSE:

The purpose of this chapter is to establish a process whereby non-binding opinion questions may be submitted to the legal voters of Salt Lake City.

2.69.020: SUBMISSION OF OPINION QUESTIONS TO THE VOTERS:

A. A non-binding opinion question may be submitted to the legal voters of Salt Lake City as provided in Subsection A.1 or A.2 of this section.

1. If an initiative proposed pursuant to Section 20A-7-501 et seq., Utah Code Annotated, as amended or its successor, is found to be legally sufficient based on the number of legal signatures obtained, but is determined by the city to be invalid because the subject matter of the initiative, if passed, would not result in a city law, the sponsors of the initiative may request that the city recorder submit the matter to the legal voters of the city as an opinion question as provided in this chapter.

2. The city council may, by resolution, request that an opinion question be submitted to the legal voters of the city as provided in this chapter. The resolution shall: include the language of the opinion question as it will be submitted to the voters.

~~a. Include the language of the opinion question as it will be submitted to the voters; and~~

~~b. Specify what explanatory material, if any, should be prepared and mailed to city voters summarizing the issues associated with the opinion question.~~

B. If a nonbinding opinion question is initiated as provided in Subsection A of

this section, the city recorder shall take action necessary to submit ~~an~~the opinion question to the legal voters of Salt Lake City as provided in ~~Subsection A.1 and A.2 of this section and Section 2.69.050 of~~ this chapter.

1. If the request is made pursuant to Subsection A.1, the opinion question submitted to the voters shall be as shown in the initiative petition circulated by the petition sponsors.

2. If the request is made pursuant to Subsection A.2, the city recorder shall conform to the requirements of the resolution adopted as provided in that subsection.

C. The mayor may establish additional requirements not in conflict with the provisions of this chapter to facilitate submission of opinion questions to the voters.

2.69.030: PROCEDURES FOR SUBMISSION OF OPINION QUESTIONS QUESTION NUMBER, SHORT TITLE, AND NOTICE:

~~A. Within sixty (60) days after a nonbinding opinion question is initiated as provided in Section 2.69.020 of this chapter,~~ the city recorder shall ~~give an~~:

~~A. Give the~~ opinion question a number ~~and shall~~;

~~B. Prepare a short title that summarizes the subject matter of the opinion question;~~ ~~and~~

~~B. The city recorder shall~~

~~C. Cause the opinion question, its number, and short title,~~ to be shown on a ballot, as provided in Section ~~2.69.040 of this chapter.~~

2.69. ~~040~~050 of this chapter, which shall be published:

1. On the city's website;

2. On the Utah Public Notice Website created in Section 63F-1-701, Utah Code Annotated; and

3. In at least two (2) Salt Lake County newspapers.

2.69.040: VOTER INFORMATION PAMPHLET:

A. The city recorder shall prepare a voter information pamphlet that meets the requirements of this section. The pamphlet shall be made available to the voters by mail,

electronically, or any other method or combination of methods designed to give all voters access to the pamphlet at least twenty (20) days prior to the time when an opinion question will be submitted to the voters.

B. Within twenty (20) days after notice of an opinion question is published as provided in Section 2.69.030 of this chapter a statement, not exceeding five hundred (500) words supporting or opposing the opinion question, may be submitted to the city recorder by:

1. The sponsors of an opinion question initiated as provided in Section 2.69.020 of this chapter, and

2. A person opposed to the opinion question. If more than one person submits a statement in opposition, the city recorder shall, by drawing lots, select an opposition statement.

3. Any statement submitted shall identify the author thereof.

C. The city recorder shall include the statements provided pursuant to Subsection B of this section in the voter information pamphlet.

2.69.050: BALLOT FORM:

A. An opinion question ballot shall contain:

1. A number and short title;

2. The text of the opinion question; and

3. a. The words "FOR" and "AGAINST," each word presented with an adjacent square in which the voter may indicate the voter's choice; or

b. All possible responses to the opinion question, each response presented with an adjacent square in which the voter may indicate the voter's choice.

B. Each ballot shall be identical notwithstanding whether it is presented to a voter in print or electronic form.

2.69.050060: TIME AND MANNER OF VOTING:

A. ~~Consistent with the provisions~~ Within sixty (60) days after public notice is published as provided in Section 2.69.030 of this chapter ~~and applicable law~~, the city

council shall, by resolution, establish the time when an opinion question will be submitted to the voters and the method by which it will be accomplished. Such methods may include voting by mail, telephone, electronically, or a combination thereof.

B. The recorder shall submit the opinion question ballot to the voters as provided in the resolution of the city council.

2.69.06070: CANVASS OF RETURNS:

A. No later than fourteen (14) days after the close of voting on an opinion question, the city council shall ~~conduct a public meet at the usual place of meeting to canvass of the returns from an opinion question no later than fourteen (14) days after.~~ The council shall declare the results of the opinion question-is submitted to the voters, including the total number of votes for and against the question.

B. The city recorder shall make a certified abstract of the record of the canvassers detailing the votes cast on the opinion question.

C. The mayor may resolve any issues relating to the canvassing process that are not governed by this section.

SECTION 3. This ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this ___ day of _____, 2012.

CHAIRPERSON

ATTEST:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

DRAFT – COMPARED TO AUGUST 8, 2012 VERSION
OCTOBER 17, 2012

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2012.

Published: _____

Opinion Question ordinance (10-17-12 compared to 08-08-12 version).doc

<p>APPROVED AS TO FORM</p> <p>Date: _____</p> <p>By: _____</p>

EXCERPT FROM DRAFT COUNCIL WORK SESSION MINUTES
OCTOBER 9, 2012

#5. [8:18:07 PM](#) AUTHORIZE OPINION QUESTIONS TO BE SUBMITTED TO VOTERS. The Council will receive a briefing regarding a proposal to enact an ordinance authorizing opinion questions (Move to Amend) to be submitted to the voters of Salt Lake City and establishing related procedures (enacting Chapter 2.69 of the Salt Lake City Code). Petitioner - Salt Lake City Council.
[View Attachments](#)

Neil Lindberg briefed the Council with handouts and a PowerPoint presentation which provided background as well as current issues requested by Move to Amend to be modified or changed. He explained Counsel for the County Clerk's Office have informally advised the Attorney's Office of their opinion that the State Election Code (Title 20A) does not allow an opinion question to be placed on a municipal ballot. The question at this time is whether the Council would like to proceed with an ordinance to allow local opinion questions to be presented in a non-traditional way in any combination or format; and if so, consider the Move to Amend proposed amendments and whether they would strengthen the proposed ordinance, and at what cost.

Cindy Gust-Jensen encouraged the Council to consider the suggestions as important policy and budget questions. She said if the draft ordinance was amended, she suggested the Council consider these in the context of being aware that at a later date they could result in cost impacts or policy shifts.

Mr. Lindberg then reviewed the proposed amendments and straw polls were taken as follows:

- Require a voter information pamphlet with arguments for and against a particular question, which would appear on the ballot (whether online or in printed form);
Straw Poll: There was consensus amongst the Council Members present to be consistent and follow the outlined state process and model (UCA Title 20A Election Code) regarding the voter information pamphlet needing to be in written format and made available but could be dispersed by any method.
- Require the City Recorder to act on a request within 60 days;

Straw Poll: There was apparent consensus amongst the Council Members present for the City Recorder to act on a request within 60-days.

- Require the City Recorder to publish an opinion short title and number in at least two Salt Lake County newspapers, including a locally-owned newspaper if one exists;

Straw Poll: There was apparent consensus, with Councilmember LaMalfa abstaining, amongst the Council Members present to publish this information on the Utah Public Notice Website.

There was consensus amongst the Council Members present to follow the standard City process and procedures for notification and to include posting on the City Web Page.

There was a tie vote (Council Members LaMalfa, Garrott, and Penfold voting in favor and Council Members Christensen, Love, and Luke opposed) to include the requirement to publish in the newspapers. It was determined that Councilmember Simonsen would have to determine the vote on this issue.

- Require the Council to approve a resolution within 60 days establishing the time and manner of voting;

There appeared to be consensus to require the Council to approve a resolution within 60 days (from the date of receiving the recommendation from the City Recorder) for the Council to set the date of the election and the manner of voting.

- Include a public review of the vote canvass and require the City Council endorsement by a formal vote;

There appeared to be consensus to refer to the typical canvassing procedures and adopt the same (i.e., accept the canvass in a public meeting to review the board results but not endorsement by a formal vote).

- Require the City Attorney to prepare a formal memorandum analyzing actions the City could take to effectuate the public desire evidenced in an opinion question outcome;

There was consensus not to require a formal action on the part of the City.

- Reduce the signature requirement to one-half the number of signatures required for an initiative; and Council Members Christensen, Garrott, Love, Luke and Penfold were in favor to adhere to the referendum and initiative requirements and not lower the threshold; Councilmember LaMalfa was opposed because he felt the required amount to be onerous.

- Allow all residents, not just legal voters, to respond to an opinion question.

Citing the need to conduct the election within a defined group of people and adhere to the current process to mandate the level of integrity, there was unanimous consensus not to allow all residents to vote (only legal voters).

Mr. Lindberg stated he would prepare the updated ordinance and bring it back for Council review and consideration.

SALT LAKE CITY CORPORATION

City Recorder

TO: Ed Rutan, City Attorney

DATE: September 10, 2012

FROM: Cindi Mansell, City Recorder

SUBJECT: Opinion Ballot Proposition

BACKGROUND:

The Council has provided consideration and discussion several times relative to the request by “Move to Amend” to provide for an opinion question to be submitted to the voters of Salt Lake City and establishing related procedures such as method, manner, and timing to achieve and ensure an accurate, secure, and integral election process that simulates an actual election.

On August 21, 2012, the Council requested Staff provide additional information on the four methods (mail, on-line, telephone, voting machines or voting centers). The request includes information relative to costs, costs per vote for the various methods, and recommendations as to which method is more likely to facilitate voter acceptance and buy-in as to process.

Option	Description	Resources	Cost (Estimate)	Estimated Cost per Vote	Voter Acceptance
<i>Calculate 90,000 registered voters/anticipate 15,000 returns</i>					
1	<i>Vote by Mail</i> (Outside Vendor)	Outside Vendor Recorder’s Office	\$109,000	\$7.26	1
2	<i>Online / Telephonic Voting</i> (Outside Vendor and IMS)	Outside Vendor IMS Recorder’s Office	\$41,000	\$2.73	3
3	<i>IMS Online / Telephone Voting</i> (printing & card distribution by outside vendor)	IMS Recorder’s Office Outside Vendor	\$26,200	\$1.74	2
4	<i>Voting Machine Rental (County) Vote Centers</i> (would require hiring of outside vendor for programming, ballot creation, tabulation)	Salt Lake County Recorder’s Office Outside Vendor	Not an option.	Sherry Swenson has indicated the machines were purchased with federal HAVA (Help America Vote Act) funds by the State of Utah; the State retains ownership of the machines.	The machines are not deemed valid for use for “opinion” votes.

OPTIONS: There are potentially other options that Salt Lake City IMS could model. I have included a link to a survey that could be placed on our website <https://icount.com/saltlakesurvey>; a link could also be included to illustrate some type of voter or survey question information pamphlet. This process functions similar to Open City Hall, but has the ability to push the survey out to voters, gather the votes, tabulate, and provide geographical map illustrations as to areas that have voted. The program allows individuals to see Results to questions once the Survey is “Closed”. The Results Report includes:

- Graph of Responses per Day
- Graph of Total Responses over Time
- Graph of Responses by Age
- Comments
- Geographical Map of Responses

This type of voting does include a validation process that would prevent multiple voting. It also allows anyone to vote, but in the end the final report will illustrate just the Salt Lake City users. A final tally that matches only with Salt Lake City Registered Voters can be provided. Finally, additional layers of validation can be added for an additional fee.

Ideas for advertising or to generate interest in the survey could include: publishing ads (not legal size ads or within the classified section); Survey I-frame embedded or published on the Salt Lake City website; Printing the Survey link on utility billings; Twitter and Facebook links to the Survey; and other media efforts. There are also other institutions that offer on-line voting solutions (E-Ballot, VoteNet, etc.)

VOTING CHARACTERISTICS: In general, *low voter turnout* may be due to disenchantment, indifference, or contentment. Low turnout is often considered to be undesirable, and there is much debate over the factors that affect turnout and how to increase it. In spite of significant study into the issue, scholars are divided on reasons for the decline. Its cause has been attributed to a wide array of economic, demographic, cultural, technological, and institutional factors.

High voter turnout is often considered to be desirable, though among political scientists and economists specializing in public choice, the issue is still debated. A high turnout is generally seen as evidence of the legitimacy of the current system. Assuming that low turnout is a reflection of disenchantment or indifference, a poll with very low turnout may not be an accurate reflection of the will of the people. Much of the impetus to vote comes from a sense of civic duty, which takes time and certain social conditions to develop: Trust in government; degree of partisanship among the population; interest in politics; and belief in the efficacy of voting.

Institutional factors have a significant impact on voter turnout. Rules and laws are also generally easier to change than attitudes, so much of the work done on how to improve voter turnout looks at these factors. Making voting compulsory has a direct and dramatic effect on turnout. Simply making it easier for candidates to stand through easier nomination rules is believed to increase voting. Conversely, adding barriers, such as a separate registration process, can suppress turnout. The salience of an election, the effect that a vote will have on policy, and its proportionality, how closely the result reflects the will of the people, are factors that also likely have important effects on turnout.

Ease of voting is a factor in rates of turnout. In the United States and most Latin American nations, voters must go through separate voter registration procedures before they are allowed to vote. This two-step process quite clearly decreases turnout. In comparison, those states with easier (or none) registration

requirements have larger turnouts. Other methods of improving turnout include making voting easier through more available absentee polling and improved access to polls, such as increasing the number of possible voting locations, lowering the average time voters have to spend waiting in line, or requiring companies to give workers some time off on voting day. Many countries have looked into internet voting as a possible solution for low voter turnout. Some countries like France and Switzerland use internet voting. However, it has only been used sparingly by a few states in the US. This is due largely to security concerns, although the US Department of Defense has been looking into making internet voting secure. The idea would be that voter turnout would increase because people could cast their vote from the comfort of their own homes. The United States is looking into implementing this plan slowly, and it would happen state by state.

The Yes/No vote is the simplest form of voting and the method favoured for elections. Voters either select 'yes' or 'no' to a project; those with majority 'yes' votes win.

The benefits of this model are:

- It's easy to explain to voters and it's easy to understand
- It is already a common way of voting - tried and tested technique
- There can be any number of projects on the list - the process doesn't limit the numbers
- Votes can be taken at a number of different places or over a period of time and then aggregated
- It's easy to use electronic equipment with only 2 options
- There is no penalty from opting out of a vote on any single project
- A good option when considering projects singly, rather than grouped together

The disadvantages are:

- It's easy to coerce or persuade people to a particular way for a particular project - and to 'rig' the votes
- The options are limited to either/or there is no way of expressing a preference or rank
- The process could be problematic if more or less projects get majority 'yes' votes than the pot of money allows. This is less problematic if fewer projects are voted 'yes' than the money allows - as the process could be repeated to allocate the remaining amount of money - however this could put strain on resources

Consideration of this method is recommended:

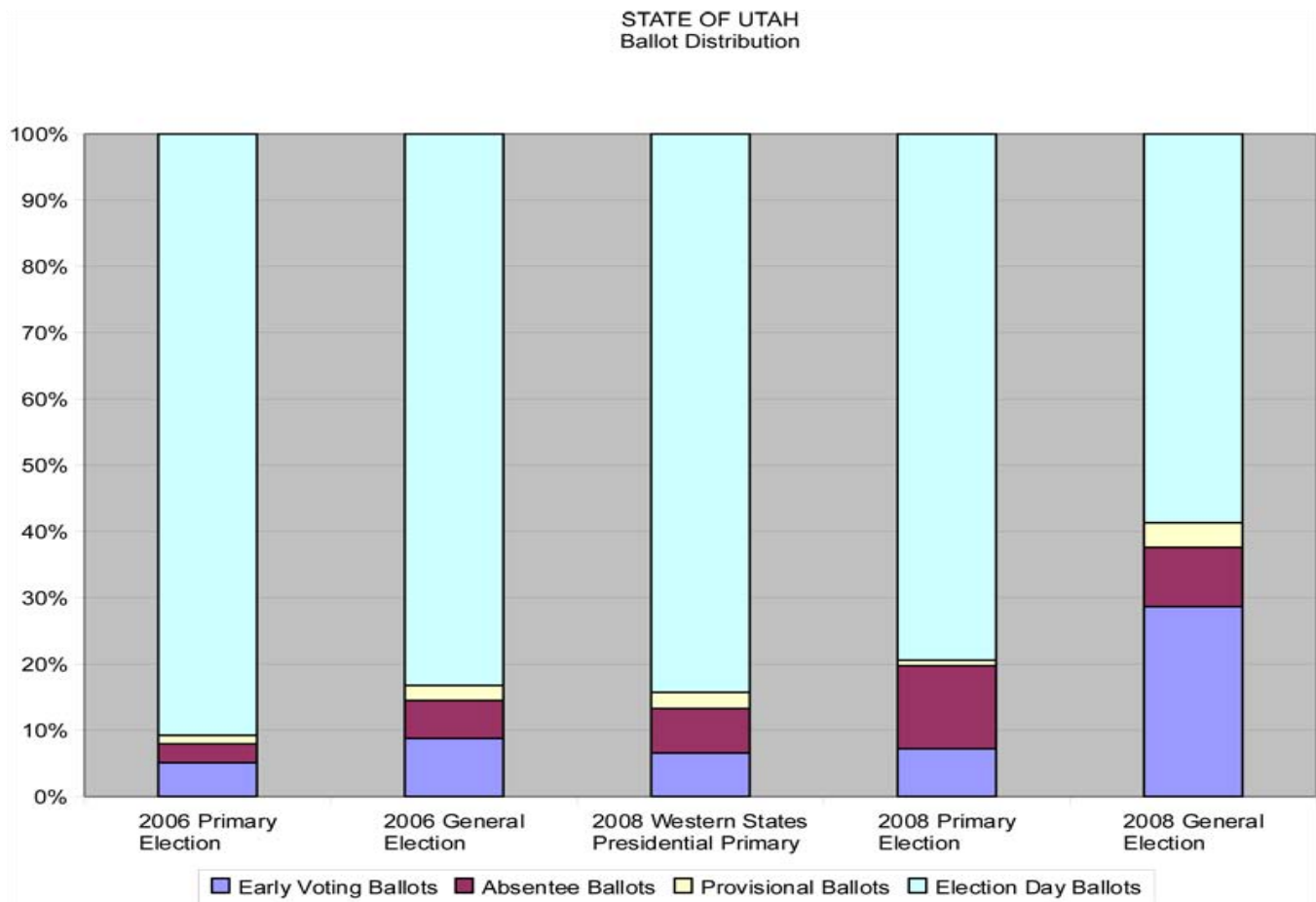
- If you are concerned about voters ability to understand more complex voting systems
- If you want a tried and tested, well known method
- If you don't want to group projects for voting
- If you want to use an electronic voting system
- You are not particularly concerned about block voting or rigging votes or you don't think it's a particular issue for the community

Finally, the most secure form of voting is the old fashioned way...when you go to the polls showing ID is certainly more secure than a PIN number, which could get passed around easily. Vast concerns exist regarding internet-based voting, but the desire remains. Countries, such as the Netherlands, the United Kingdom and Germany are moving away from the Internet and other forms of electronic voting due to concerns over security and transparency. There is only inconclusive evidence regarding how Internet voting affects overall turnout.

RECOMMENDATION: Once the Council determines the method in which they would like the election to occur, Staff can further outline and detail the process involved. There is no preference, and it is believed that any one of these methods (or a combination) can achieve the Council's request.

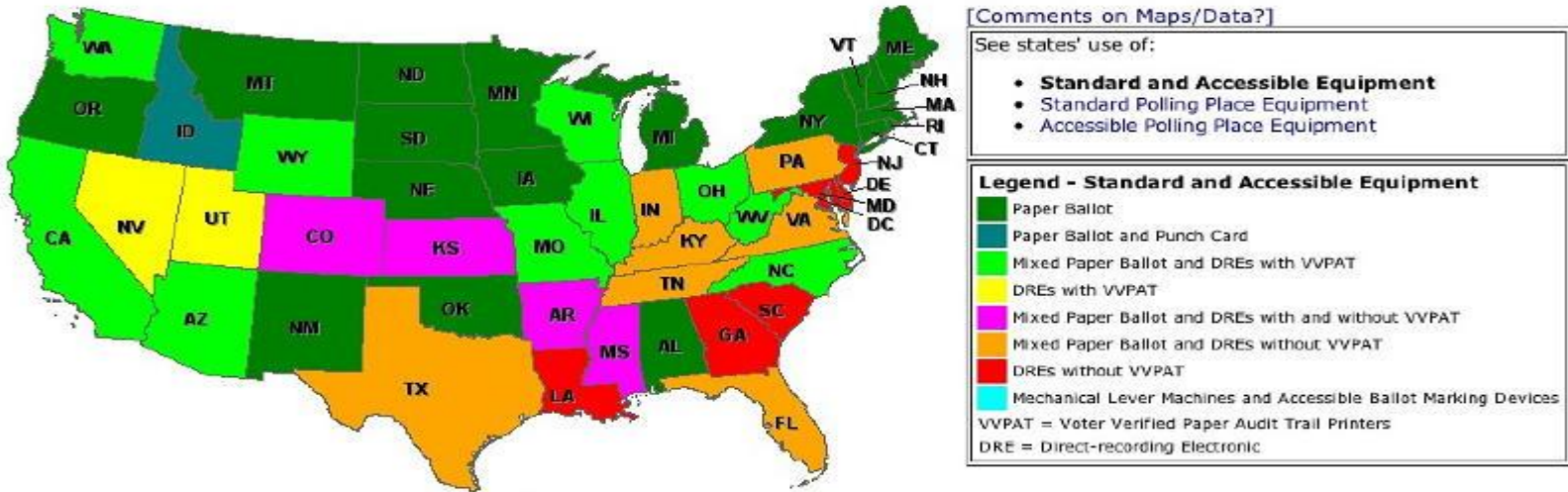
Voting Methods

METHOD	PROS	CONS
Direct Recording Electronic (DRE) Also known as touchscreens, DREs are quickly becoming the preferred way to vote in the U.S.	The machines can be programmed in several languages and include devices that enable people with disabilities to vote.	Critics argue that without a voter-verifiable paper ballot, there is no way to ensure that ballots are correctly recorded.
Optical Scan Used extensively in standardized testing, ballots are fed into a scanner to tally votes.	Optical scanners leave vote tallying to machines instead of humans, reducing errors.	Scanners must be cleaned often to ensure they don't misread ballots. They do not automatically alert officials if an error occurs, or provide information on why a ballot is rejected.
Punchcards Made famous during the 2000 presidential elections, punchcards require voters to punch holes into the ballot opposite their choice of candidate. The votes are counted by hand, or by a special tabulating device.	Low-tech means low cost.	Confusing ballots and hanging chads make it difficult to determine the voter's true intentions.
Mechanical Lever Machines Voters select their candidates from a series of printed strips arranged along a series of levers. Once all the choices are made, voters pull the main lever to record their votes.	The machines were meant to be the answer to ballot-box stuffing, and have been widely used for decades across the nation.	Lever machines are no longer manufactured, and have no auditing capabilities.
Paper Ballots First adopted in 1889, paper ballots are now used only in rural areas and for absentee voting.	Paper ballots are the simplest way to record votes.	They can be easily forged, and ballot boxes can be stuffed.



- 32% of those 59 and older are comfortable with the newer electronic voting.
- In 2010, the percentage of vote-by-mail voters exceeded the number of voters at polling places in places like Oregon and Orange County, California. This is especially true for special elections.
- Voter turnout is 13% higher in countries where voting is compulsory/penalties imposed for NOT voting.
- Media coverage can play a huge role in voting statistics.
- The 2009 Index of Association and Non-Profit Voting and Elections finds that the majority of associations are incorporating online voting into their election and voting processes, but most are still concerned about voter turnout and member participation.
- Associations are increasingly turning to online voting, with 62% offering an online ballot option, and another 21% looking to switch from paper ballots to an entirely online process.
- Email promotions and posting voting information and promotional materials on the organization's website are the best methods for increasing voter turnout.
- 33% of associations offer a combination of paper and online ballots, with 51% of those providing paper ballots to voters without email addresses or anyone who requests a paper ballot. 23% give each voter a paper ballot as well as the opportunity to vote online.
- Almost 45% saw voter turnout increase after making the switch to online voting.
- Another major benefit from switching to online voting was that the ability to vote online made the voting process more convenient. In addition, organizations reported they saved time and money and modernized their process.

Statewide Voting Information 2012



Key facts:

- Nationwide, 25% of the nation's registered voters will have to use **paperless electronic voting machines** on Election Day (November 6).
- For **67%** of American voters, **voter-marked paper ballots** are the standard voting system. 37% of the voters live where paper ballots are the sole voting method and accessible ballot marking devices serve voters with disabilities; 30% live in areas where paper ballots are the standard voting system and electronic voting machines are deployed for accessibility.
- Half the states will conduct [manual-count audits](#) of electronic vote tallies. Hand-counted audits of machine tallies are essential to verified elections; without audits, paper ballots or paper records add little security value. Some planned audits will be weak audits, such as in Florida, where the audit will be conducted after the election is certified, and only one item on a large general election ballot will be chosen randomly in each county. New Mexico has strengthened its audit law, and California is planning robust risk-limiting audit pilots next year. *13 states that now have voter-verifiable paper records for all voting systems will not conduct post-election hand audits.*
- In **11 states**, **paperless voting accounts for most or all Election Day ballots**. Six states have paperless e-voting statewide: DE, GA, LA, MD, NJ, and SC. In five states, paperless voting counts for a heavy majority of votes: IN, PA, TX, TN, and VA. In KS, we estimate that at least 40% of the vote is paperless.
- In **32 states**, voter-marked paper ballots counted by ballot scanners will account for most or all votes. 19 states will use voter-marked paper ballots statewide. In 13 states and DC, optical scan voting will account for the majority of ballots: AK, AZ, CA, CO, FL, IL, HI, KY, MO, NC, WA, WI, and WY.
- **33 states plus DC** now provide a voter-verifiable paper record (VVPR) for every vote cast. A VVPR may be a paper ballot, or it may be a printout that the voter can view before she casts her ballot on a DRE voting machine.
- **40 states have moved toward requiring voter-verified paper records (VVPR)**, either through legislation or administrative decision. **6 states will not fully implement** their VVPR requirements until some time after the 2012 election: AR, CO, FL, MD, NJ, and VA.
- **4 states are now mostly or entirely paperless but have enacted laws to end the use of direct-recording electronic voting machines**, or fund their replacement: MD, NJ, TN, and VA. Maryland's and Virginia's statutes require a transition to optically scanned paper ballots. NJ's statute allows printer retrofits. Tennessee repealed a required transition to paper ballots in 2011, but current law requires the state to provide counties with funds to replace DREs with optical scan equipment and ballot marking devices for voters with disabilities.
- This year some 32 states and DC allow military and overseas voters to **return their ballots by fax, e-mail, or through a Web portal**, though security concerns are starting to be heard. States such as MI, OH, and VA prohibit insecure electronic return of voted ballots. These States instead serve their military and overseas citizens by employing common-sense practices such as electronically transmitting *blank* ballots to voters and extending the deadline for accepting ballots from abroad.
- The District of Columbia's pilot project for Internet voting for overseas and military voters has been scaled back to allow only electronic delivery of blank ballots to voters (though voted ballots may be e-mailed or faxed). In October 2010, DC's pilot Internet voting system for overseas and military voters was hacked in dramatic fashion by University of Michigan researchers who changed votes on submitted ballots, discovered voters' personal information – and who observed users in Iran and China attempting to break into the system. To learn more about Internet voting, please visit Verified Voting Foundation's [Internet Voting Information](#) page.

Councilman Søren Simonsen
Councilman Kyle LaMalfa
Councilman Luke Garrot
Councilman Charlie Luke

451 S State Street, Room 304
PO Box 145476
Salt Lake City, UT 84114-5476

September 7, 2012

Re: City Opinion Question Ordinance

Dear Councilmen,

The Organizing Collective of Move To Amend Salt Lake City has reviewed the proposed city opinion question ordinance. This letter proposes changes to the ordinance that Move to Amend believes would enhance the ordinance.

At the outset, It is important to note that Move to Amend Salt Lake does not consider the proposed ordinance as an adequate "replacement" for an official ballot. The problem that Move to Amend encountered (and which still remains for future groups) can only be remedied by the courts or the state legislature. Regardless, Move to Amend supports the ordinance as it believes that it represents an innovative and value-added vehicle for public input and involvement in the political process that does not presently exist.

The Organizing Committee empowered an Ordinance Review Committee to propose the following changes. Some are merely procedural and are addressed first. Other substantive proposals would enhance the tangible benefits of the city opinion question process, and in our view offer progressive steps forward toward a more inclusive, participatory, and meaningful democracy. A robust local democracy is the explicit purpose of the ordinance, as well as Move to Amend. Substantive proposals are followed by a brief explanation of the reasoning behind them.

We propose the following changes for your consideration:

2.69.020 A1. Inclusion of explanatory information for opinion question originating with initiative sponsors, comparable to those mentioned for the city council in 2.69.020 A2b. U.C.A. § 20A-7-402, which provides for arguments for and against initiatives and referendums to be disseminated in a Voter Information Pamphlet would be a possible model. Such explanatory materials would appear on the ballot, whether online or in printed form.

2.69.020 B. Provide a time limit of 60 days for the Recorder to act on request. This would provide predictability for sponsors or opponents of the resolution to organize any accompanying efforts.

2.69.030 B. Recorder shall publish in at least two Salt Lake County newspapers, including one locally owned newspaper if such a paper exists.

2.69.050 A. Provide a time limit of 60 days for the Council to approve resolution to establish time and manner of voting

2.69.060. Inclusion of public review of canvassing result and council vote (yea or nay) of endorsement of result.

2.69.060. Require city attorney to author memorandum supplying legal guidance to city council on actions the city could take to effectuate the public desire evidenced in the opinion question outcome. Such a memorandum could answer the following questions: What ordinances or laws already existing are in conflict with the desire of the public evidenced in the poll's outcome? What laws could be amended by the council to effectuate the desire of the voters? What types of ordinances or laws could be introduced and passed to effectuate the desire of the voters?

Because citizen's groups who contemplate beginning an initiative drive typically do not possess the legal knowledge to craft an appropriately constitutional law, or may lack the funds to hire legal counsel, such memorandum would give the public some helpful guidance on how to craft legally sufficient initiatives if the citizen group plans to ultimately put forth a binding initiative related to the subject of the non-binding question. These memorandums would likely improve the quality of prospective initiatives and may prevent lengthy and costly litigation over the legality of initiatives that have passed.

It may also be necessary to include some form of accountability for the memorandum. For example, the ordinance may require the City Attorney to complete the memorandum within a reasonable time-frame. If the time-frame is not met, we recommend that the ordinance require the City Attorney to explain in writing the good cause which has delayed the completion of the memorandum, along with an expected completion date.

2.69.020 A1. Change signature threshold down to 'half the number of legally obtained signatures required.'

Citizen initiative signature thresholds are arguably often arbitrary. At worst, a high threshold is a "vote of no confidence" on the part of state legislators, and signals a real hostility to the inherent power of the people. The real value and purpose of a threshold is to test a proposed initiative for a sufficient level of approval and reasonability before placing it on the ballot. This objective is probably met at a number below 10%.

In other words, the wisdom of 5,000 citizens will probably be comparable to the wisdom of 10,000. An additional 5,000 signatories does not enhance the wisdom or value of the proposed initiative. It has diminishing returns, and is probably motivated by distrust of the initiative process itself. Hiking the signature requirement beyond the number required to vet the reasonability of a proposed initiative only results in the untimely death of otherwise meritorious initiatives.

In the experience of Move to Amend Salt Lake, the current 10% level required around 11,000 signatures to meet the +7,100 valid signature threshold. While by no means insurmountable, such a threshold presents an overly burdensome task for a non-binding result. The value and effectiveness of an online poll is also arguable, and it may yet be found that the turnout will be lower than traditional elections. Facing such a threshold and risk for a non-binding outcome may convince potential citizen groups that the effort is cost-prohibitive.

Lastly, 11 of the 23 states in the US require only 4-8% thresholds for initiatives - and this is for *binding laws*. As the city opinion poll is non-binding, and is meant to encourage citizen participation in policy making, why keep the presently high threshold required under state law? Halving the state requirement would have still required +5,000 signatures in our case.

2.69.010 - Replace 'legal voters' with 'residents.'

As a communication tool of the public with no legal implications, non-binding opinion questions should seek to gather as much feedback as possible from all residents of Salt Lake City. This raises important logistical questions to maintain the integrity of the poll, but these issues are not insurmountable. Attempts have been made recently to enfranchise non-citizens in many states and cities: New York City, Washington DC, Minnesota, Massachusetts, Connecticut, Maine, Texas, Wisconsin and North Carolina. The most prominent example currently in effect is Chicago, which allows all parents of enrolled students to vote in school board elections (New York City allowed this until 2003, when the school boards were disbanded). And in a bold move, Takoma Park, MD, allows resident voting for all municipal elections. There is a local example, as UDOT is required to canvass the opinions of all residents in an affected area for decision-making, not just 'legal voters.'

Thank you for your consideration. We look forward to meeting with you further to discuss the proposed changes.

Caleb Proulx, Giles Larsen
Project Coordinators
Ordinance Review Committee, Move to Amend

cc: Ed Rutan, Neil Lindberg

Opinion questions to voters?

What do you think about a proposed ordinance that would allow opinion questions to go before the voters of Salt Lake City?

Public comments as of October 17, 2012, 11:04 AM

All Participants around Salt Lake City



As with any public comment process, participation in Open City Hall is voluntary. The statements in this record are not necessarily representative of the whole population, nor do they reflect the opinions of any government agency or elected officials.

Opinion questions to voters?

What do you think about a proposed ordinance that would allow opinion questions to go before the voters of Salt Lake City?

Introduction

Update: Public hearing is October 2

Proposed ordinance would allow opinion questions to go before the voters of Salt Lake City.

The Salt Lake City Council will consider an ordinance that would allow opinion questions on matters concerning the community to go before the voters of Salt Lake City. While the Council is able to express its non-binding opinion on certain issues, the proposed ordinance would extend that ability to citizens by allowing the Council, or a citizen group meeting specific criteria, to ask an opinion question of Salt Lake City voters. Voters would express their opinion on formal ballots, which would be tallied. The formal expression of opinion would not be binding legislation, but would be considered an important part of the democratic process.

Public hearing held Aug. 21. Another may be planned.

What do you think of this proposed ordinance?

Opinion questions to voters?

What do you think about a proposed ordinance that would allow opinion questions to go before the voters of Salt Lake City?

As of October 17, 2012, 11:04 AM, this forum had:

Attendees:	337
Participants around Salt Lake City:	31
Hours of Public Comment:	1.6

Opinion questions to voters?

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JOY DANTINE in District 1

September 21, 2012, 9:58 PM

This action item is consistent with current considerations on public comment; I like it alot.

Chris Biltoft in District 3

September 5, 2012, 2:49 PM

It is not clear to me that non-binding opinion questions should go before voters, particularly given the administrative costs. Voting should be kept as simple as possible and adding a bunch of questions that voters have not properly considered is not helpful. The principal change needed is to switch to instant recount voting.

Name not shown in District 6

August 21, 2012, 12:25 PM

There are many well reasoned responses and after considering the posts I would have to agree with the majority opposed to this type of data collection for the following: 1-The cost does not justify this effort, there are many ways already in place to receive public input, OCH being the latest in a variety of avenues including regular meetings, open houses, direct contacts with our representatives, localized Community Councils and workshops, the processes are already exhaustive and I believe are working 2-With any type of vote (opinion) there must be an education piece, to collect data from the uninformed is worse than collecting nothing at all 3-We elected our representatives to make decisions in the best interest of all residents in the city for the long term, this is the type of government we have in place 4-Where would this effort to gather data stop? As an extreme example, would there be a mailing to determine what trees to plant in the parking strips? But seriously who would determine when and what issue needed to be 'voted' on? 5-If the elected officials don't feel they have enough info then they should take the time to gather the info themselves from their constituents 6-I feel this is a maneuver to give the elected officials political cover, they can use it to avoid making the tough calls and correct decisions for the best interest of the city in the long run and for which they were elected.

Kelly Marinan in District 6

August 21, 2012, 10:07 AM

I have mixed feelings about this.

I like the idea of creating different ways to gather input from citizens. I think the more input for the City, the better. And I like the idea of trying to reach people that may not be active internet users, like the poor or elderly population that are often left out of the loop today.

But, a simple count of "yes" or "no" seems too simplistic to base any good, sound decisions on. You don't know how well-informed the public is in making their vote. Maybe if the wording was different, or a little more information was given in the question, or one little part of a proposal was tweaked or changed, the people's position would be different? Complaints on the wording means you could go back-and-forth forever trying to get it right. So fairness and accuracy is a serious concern for me. (Would blacks have ever won the right to vote with this approach to law making?)

Considering the rise in internet usage, the mail-in stuff seems costly to me. I would rather see people

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All Participants around Salt Lake City

take personal initiative and use their own time and money to communicate their feelings on issues. I can imagine the City requesting comments via the internet, newspapers, even TV news. I'm hoping with time we'll see more people using electronic sources and showing up at public meetings with civility. If the mail-in option was used, I would hope it would allow constituents to put in more information as to why they are voting the way they do and that those ballots would have slightly more weight than a simple checkmark.

Name not shown in District 6

August 8, 2012, 8:56 AM

I dont believe that this proposal would accomplish what it is intended to accomplish. It seems rather pointless to have a non-binding issue put on a ballot at a cost of 60K-110K. How would those that live outside of the City be filtered out of the process? What would the end result of the opinion be, that the City supports certain causes? Can't the Council already do that? We elected City Council people to make decisions that are in the best interest of the City. This proposal seems like a way for elected officials to save face on making difficult decisions. Which I guess is better than the current decision making process, which is make no decision so all kinds of proposals just linger out there, meanwhile the public loses interest, gets overwhelmed with the number of public meetings that get scheduled and ends up deciding to hell with it and stops engaging. Look at the alcohol changes, they have been sitting in the council office for 2 years! While the goal of increased participation is important, perhaps the most important goal a City can have, there are better ways to do it.

Cant the City set up the same type of system without the need to put something on a ballot? Aferall, that is exactly what Open City Hall is. The public is fairly apathetic when it comes to voting in the first place, what makes the City think that a non-scientific "opinion question" would be any different? Look at the last City election. Off year, but with a mayoral election, and what was the percentage of voters that turned out?

Thomas Tischner in District 5

August 7, 2012, 4:54 PM

If you're trying to emulate California or nearly any city within, you are on the right track. That state has become so over opinionated as to be barely functional and nearly bankrupt, not to mention several of its cities have in fact declaired bankruptcy. Too much citizen opinion resulting in regulation brings nothing but chaos.

Gene Harkins TND PhD in District 5

August 7, 2012, 10:41 AM

If the city council would like to dig \$60,00 out of their personal funds to find out what people think, (they could just talk to their neighbors), then spend away but this is a waste of tax dollars. The open meeting work well. Why don't we just get rid of representative government and just have a talk show manage the city by call in opinions. Jerry Springer needs a job.

Richard Middleton in District 3

August 6, 2012, 1:22 PM

I think Robert Barth has it right. Get a professionally-conducted statistically-valid poll, and avoid

Opinion questions to voters?

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All Participants around Salt Lake City

special interest groups flooding the process. But even polls should only be guides for elected representatives, not binding, given that it is difficult for many of us to get accurate unbiased information on issues

Terry Marasco in District 3

August 6, 2012, 9:55 AM

The intent is laudable but the results may be flooded with a barrage of emails from orchestrated groups (for or against) which would skew the results. How does the city filter this?

Karen Elrod in District 7

August 6, 2012, 8:54 AM

As much as I think that government needs to be open, I am against this process. It would be difficult and expensive to manage. It would be confusing to most voters. I think that Salt Lake has many ways to access voter opinion (opencity for example) that work very well.

Bryan Young in District 5

August 6, 2012, 8:12 AM

We have an adequate public process and we vote for the decision makers. This will be costly and cripple our already slow public process.

And sometimes, legislators are able to legislate over the objections of the majority for the good of all. Look at TRAX... that met considerable opposition... Or Yalecrest... We needed TRAX and we need a historic district in that area. Putting it to a vote doesn't negate the need.

Mike Kephart outside Salt Lake City

August 4, 2012, 10:29 AM

I don't understand what this would do to help the political gridlock we currently struggle with. Another commenter pointed out that our political system is a democratic republic under which we select representatives and then let them work things out. That isn't what is happening though, is it?

One problem is that too many opinions make for no opinion and no decision. Here in Denver, neighborhoods have evolved into a multitude of special interest groups. Each neighborhood rejects everything that they believe hurts them even though the overall city needs something somewhere. Notorious is the need to locate things like: Jails, or affordable housing. No neighborhood wants them in their area. Another issue is the way we let money make our decisions for us. We don't elect the monied class but they seem to make many of our decisions without the benefit of our opinions.

This effort may be totally wasted unless it results in a decision, either by our representatives or a general vote.

Daniel Strong in District 1

August 4, 2012, 10:12 AM

I don't think there's anything wrong with letting opinion questions go to the voters. I assume this is being proposed in response to the Move to Amend ballot measure. I support that movement, but even

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if something came up that I did not support, I don't think there's anything wrong with using the city government process to express some statement the community wishes to make. It's just another way for residents of SLC to have a voice in a state where our voice is often drowned out.

Phil Mattingly in District 6

August 4, 2012, 7:56 AM

Our fearless leaders now propose that a new ordinance be passed that allows us the taxpayers to express a 'non binding' opinion about something to the SLC Council. They will take our tax dollars and put more government workers on the payroll to go around and collect the opinions and make sure they are correct opinions, etc.....failing to mention at what cost to the tax payers.

Of course any opinion expressed by us the tax payers is 'non binding' on the august Council Members. So my question is why do it? It seems to be an exercise in futility and waste of our tax dollars if it has no power of enforcement. They get 'non binding' opinions from this website by submitting a request for our opinion. Wouldn't it be cheaper, more efficient and quicker to let us the tax payers submit a request for an opinion to this website and have other tax payers comment on it like they do to us? Isn't that what we are already doing without incurring the cost of adding more government employees to the payroll which is what they are proposing?

Besides, if there is anything we have learned about the liberal leaders of SLC who seek 'social equality' (Comrade Becker's words) is that they pretend to care what the opinion is of the tax payers, but in truth continue with their free spending, new fee creating, progressive liberal ways irregardless of what the people want. A perfect example is the 'opinion' they requested from us the tax payers about the rezoning of the old Kmart property at the mouth of Parley's Canyon. You will recall that Walmart who purchased the property years ago with plans of putting in a new Walmart store there had a current remodeling permit for the building but after complaints from some council members about big box stores on that site, Walmart submitted a new plan to tear down the old, inefficient 120,000 sq ft bldg and build an new 90,000 modern, greener more efficient and up to date structure. All the council had to do was grant a waiver or put the zoning back to where it was when the Kmart was built. The "opinion" from the public on this site was 2 1/2 to 1 in favor of allowing Walmart to build a better, smaller building and the Council voted against it in spit of what the tax payers wanted.

So my question is: If the liberal Council does what they want anyway, why go to the trouble and cost of getting 'non binding opinions' from us anyway?

Bill Anderson outside Salt Lake City

August 3, 2012, 11:53 PM

I agree with Mr. Barth. The idea sounds appealing in that it encourages more citizen participation in government. But, the votes held on such opinions would a self-selected, biased minority of the city. Our country is NOT a pure democracy, it is a democratic republic. As such, we elect representatives and empower them to vote on our behalf to conduct the business of government. I know this is only about non-binding resolutions. But, the idea conflicts with our chosen form of government and I think it would lead citizens to be confused about their lawful role in the broader process. I think it will eventually create greater contention and disillusionment.

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I do not understand this question, it is very vague and open. I need more information before I can give an opinion.

Robert Barth in District 4

August 3, 2012, 10:17 PM

On the surface this seems like an open-minded idea but on closer inspection it actually supports the idea that deliberately skewed data could be an accurate representation of general public opinion. To ask voters to express their opinions on an issues as means of polling those who vote in any given election would yield data that represents the opinions of only those who voted. It seems to me that if the City wants to poll its residents, with the objective of obtaining the least bias in the data, it would hire a professional polling agency and conduct the survey in a more statistically sound manner.

sundra allen in District 4

August 3, 2012, 10:09 PM

I think it is a necessary part of the legislative process and too long in coming!

Carole Straughn in District 7

August 3, 2012, 8:42 PM

If City Councils can issue resolutions that tell their feelings on a matter, why can't we voters do the same thing?

If ten percent of voters in a number of areas have signed a statement expressing their values on a matter, why can't all of us voters have a chance to express an opinion on the matter?

If corporate lobbyists have the ear of our politicians, why can't we?

Petitions I have signed show the cost of putting the statement on the ballot. It is relatively little and well worth the effort to let our lawmakers know our feelings, beliefs and values.

Steve Boulay in District 3

August 3, 2012, 7:54 PM

I like transparency but I am not in favor of a non-binding vote on issues. If we are going to submit issues to a vote lets have it be binding. We are part of a representative democracy and we should let our representatives go about their business. Yes, express your opinion but don't do it in the form of a non-binding vote that would only taint the outcome if our representatives chose to vote a different way direction.

Katherine Fox in District 6

August 3, 2012, 5:56 PM

As I read the statements of those who are opposed to this nonbinding proposal the thought occurred to me, "Particularly when government is trying to reach a decision, since when is more, rather than less information a bad thing?"

Katherine Fox

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Very considerate for the citizens of Salt Lake City but this would prove to be a waste of time and money. There are processes that exist, today, to accomplish the some objectives. Also, this would provide another venue for a minority to dictate to the majority.

Matt Fields in District 5

August 3, 2012, 4:53 PM

I signed the petition to put the ethics vote before the voters. I was upset to learn that because the language didn't meet a specific standard it was denied. I fully support the ordinance. It should be easier for citizen's to have their voices heard, not more difficult.

Name not shown in District 4

August 3, 2012, 3:33 PM

I am against more and more laws, but since this is not binding it would be nice to have a voice. To even get an answer from the Mayor or the Council is not easy. It would be nice if some of the concerns I have were made known to more citizens. After six months I found out the charging stations with free parking for electric cars cost \$15,000. I think that is each and I don't know if there are two or four. In any event over a four month period they have been used 54 times total. If there are only two then that is less than once every four days and probably the same car. Since each regular metered parking stall must bring in at least \$3000 a year each and these are free and unused. If taxpayers could see how ineffective this program is by a questioner maybe the city wouldn't waist money that could go to law enforcement. I think if these types of questions on spending could imputed by citizens it would be good.

Sheila O'Driscoll in District 6

August 3, 2012, 3:28 PM

This proposed ordinance is interesting. These are the questions that first came to me as I read through this document.

Who is going to pay for this special voter opinion?

What is the process really going to be? Who can initiate the voter opinion? We need an example with details.

Is this only going to be available at regularly scheduled elections?

How is a legal voter defined? I haven't looked up the specifics as provided in the proposal, yet.

Why does anyone really think there will be more "legal voter" participation in this forum than in an election? I believe it is a travesty that we have such a low voter turn out of the citizens in this city, county, state and county.

How can we insure that the opinion question is valid and reliable? My opinion on polls is that they are very hard to present in an unbiased and reliable way to obtain a valid answer.

I would like more opportunity to hear from those who are promoting this proposal and from those who would oppose such an ordinance

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I genuinely believe that the question of who is going to pay for this and how much is it going to cost the taxpayers of the city is a reasonable and important part of making this decision.

Matthew Gray in District 6

August 3, 2012, 3:16 PM

A good Idea in theory, but I feel that the best decisions are not always the most popular among the public. Take TRAX for example: there was large public resistance during the planning and construction phases, but it became a very beneficial and favorable in our community. Major decisions should be made by professionals who have taken the time to weigh the outcomes rather than people who might not know anything about the topic until they enter the voting booth.

Name not shown in District 3

August 3, 2012, 3:03 PM

In theory it seems a very desirable approach. However, as long as fewer than 20 percent of eligible voters choose to exercise their personal franchise and responsibility, the "public opinion" expressed will be anything BUT a fair and balanced expression of what the plurality of the community wants or thinks. This will be particularly troubling on "hot button" issues if our duly elected representatives choose to make a decision based on well-considered facts that differ from the voters' opinion. I've chosen my representative based on ability to make considered decisions after carefully listening to everyone, not to twist in the wind of the loudest voice.

Matthew Kirkegaard in District 6

August 3, 2012, 2:33 PM

I fully support this ordinance. The more input citizens have the better.

Name not shown outside Salt Lake City

August 3, 2012, 2:28 PM

This is the caveat:

If the governing body can use polling standards that are equivalent to those of any industry, maintaining the integrity of the polling data acquired and the forming of the polling questions, then it would cut out an expense of hiring a polling agent to sample the people. Most industry uses population polling to gather statistics and to gain market advantages. I'd think our representative process could evolve by polling its people in a way that is non-biased by party preference and that allows the people to voice their will for to their elected leaders. Too often only the corporate lobbyists and special interest insiders are taking advantage of expression to sway the representatives. Time for the populace to take the share back where it belongs.

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This may be considered a disruptive statement, but given the state of politics anywhere, it has become evident to me that most government entities can't be trusted to make decisions on their own, despite what they say in public. The more transparency the better.

Jeremy Beckham in District 2

August 3, 2012, 2:01 PM

I think it is important in a representative democracy for our elected officials to understand the opinions and feelings of the people they represent. This seems like a wonderful idea that would reflect democratic principles.
