

REQUEST FOR COUNCIL ACTION

Date: February 9, 2009
Item No.: 13.d

Department Approval

City Manager Approval

W. Malinen

Item Description: Discussion of Distribution of Campaign Literature

BACKGROUND

At a recent public meeting a citizen asked the City to regulate the distribution of campaign literature by groups or individuals other than a political candidate. I asked the City Attorney to review the legalities of such a proposal.

STAFF RECOMMENDATION

Receive City Attorney's Letter of January 12, 2009.

REQUESTED COUNCIL ACTION

Receive City Attorney's Letter of January 12, 2009.

Prepared by: Bill Malinen

Attachments: A: City Attorney's Letter dated January 12, 2009

Jay T. Squires
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January 12, 2009

Mr. Bill Malinen
City Manager
2660 Civic Center Drive
Roseville, MN 55113-1899

RE: *Dissemination of Campaign Literature*
Our File No. 4002(1)-0338

Dear Bill:

At a recent meeting, a citizen expressed concerns about, in his judgment, the propriety of the dissemination of campaign literature by groups or individuals other than a candidate. This individual suggested the City should regulate such activity. You requested I analyze the ability of the City to do so.

Campaign practices, and in particular the dissemination of campaign literature, are comprehensively regulated by Minn. Stat. Ch. 211B, the Fair Campaign Practices Act. Minn. Stat. § 211B.04 specifically regulates the dissemination of literature.

Given the comprehensive nature of Chapter 211B, I have concerns that any local regulation would be preempted by State law. The doctrine of preemption is premised on the right of the State to so extensively and intensively occupy a particular field or subject with State law that there is no room for municipal regulation. Mangold Co. v. Village of Richfield, 143 N.W.2d 813, 819 (Minn. 1966). If local regulations are preempted, they are void. Nordmarken v. City of Richfield, 641 N.W.2d 343 (Minn. Ct. App. 2002).

Notwithstanding the preemption doctrine, the Supreme Court in 2006 in Riley v. Jankowski, 713 N.W.2d 379 (Minn. 2006) found the campaign literature distribution

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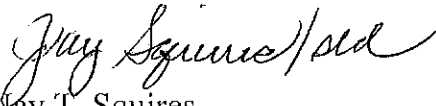
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provisions in Minn. Stat. § 211B.04 were unconstitutional as violative of free speech rights. Consequently, and in light of this decision, it would be dangerous for the City to attempt to restrict an individual or group's right to, anonymously, distribute campaign literature.

In conclusion, I would not recommend that the City consider the adoption of any local ordinance limiting campaign literature distribution rights. Let me know if you have further questions.

Regards,



Jay T. Squires

JTS/cg

RRM: #126928