**Request for City Council Committee Action**
**From the City Attorney's Office**

Date: June 14, 2011
To: Intergovernmental Relations Committee
Referral to:

**Subject:** Minneapolis Charter Commission's Plain Language Charter Revision

**Recommendation:** Receive and file.

**Previous Directives:** December 15, 2009, Staff Direction from the Intergovernmental Relations Committee to Draft Amendments to Charter Commission's Proposed Draft Charter

Prepared by: Peter W. Ginder, Deputy City Attorney Phone: (612) 673-2478

Approved by: Susan L. Segal
City Attorney

Presenter in Committee: Susan L. Segal, City Attorney

**Financial Impact** (Check those that apply)

_X_ No financial impact (If checked, go directly to Background/Supporting Information).
___ Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
___ Action provides increased revenue for appropriation increase.
___ Action requires use of contingency or reserves.
___ Business Plan: ____ Action is within the plan. _____ Action requires a change to plan.
___ Other financial impact (Explain):
___ Request provided to department's finance contact when provided to the Committee Coordinator.

**Community Impact** (select only those category(ies) that apply and delete the others, then delete this sentence)
Neighborhood Notification
City Goal(s):
Comprehensive Plan
Zoning Code
Other

## Background/Supporting Information

On April 14, 2011, the City Attorney's Office (CAO) made a presentation of its Request for Council Action (RCA) on this topic dated March 24, 2011. The March 24, 2011, RCA discussed the history of the Minneapolis Charter Commission's efforts to review the Charter and its proposed "Plain Language" revision ("PLCR"). During the presentation, the CAO discussed the efforts of the City's Charter Revision Work Group in implementing the Intergovernmental Relations Committee (IGR) staff direction, the amendments proposed pursuant to IGR staff direction, the impact of removing charter provisions to ordinance and significant changes discovered in the PLCR during the course of Work Group review. At the conclusion of the presentation on April 14, 2011, the matter was postponed in order to receive additional comments from affected departments, boards or other interested reviewers. Based upon input received from other interested parties, several other changes are being recommended by the CAO to the PLCR. These changes are reflected in the new City Attorney Redline Version dated June 8, 2011.

## A. Changes proposed pursuant to department, board or commission input.

Certain additional changes are recommended to the PLCR after receiving and discussing input from affected departments, boards and commissions.

### 1. Removing clause providing no limit on reductions made by Board of Equalization.

Based upon input received from the City Assessor, the CAO is recommending a change to that section of the PLCR [Section 4.1(c)(2)] providing that a Board of Equalization "is not subject to any limit on the amount that the board can reduce the aggregate assessments made by the County Assessor". Based upon discussions with the City Assessor and review of Minnesota law, we are recommending removing that section since it is in apparent conflict with state law that provides that a local board of review must not reduce the aggregate assessment made by the County Assessor by more than one percent. See, Minn. Stat. § 274.01(1)(c). In addition, we have re-titled this section "Board of Appeals and Equalization" which is the term more commonly used in Minnesota Statutes.

### 2. Changes proposed by Minneapolis Park Board.

The Park Board, through its attorneys, has proposed certain changes to the CAO redline version of the PLCR. In particular, the Park Board has requested additional language which it believes would clarify the derivation of authority that exists for the Park Board outside of the charter. These concerns had previously been the subject of discussion between attorneys for the Park Board and the City. After reviewing the proposals by the Park Board in this area, the CAO is again recommending that these matters not be included in the PLCR. The CAO believes that the substance of these proposals are already captured in the PLCR and additional changes are both unnecessary and duplicative. It is important to note that Section 1.3(b) explicitly states that "except as this charter or an amendment explicitly provides otherwise, the charter does not affect (1) any ordinance or other municipal act adopted before its adoption or its latest revision or amendment; (2) the existence, status, function, composition, powers, or duties of any board, department or other political body, or (3) the office, tenure, powers, or duties of any officer." In addition, the PLCR also states in Section 1.3(c)(2) that "The charter does not affect any special or other law to the extent that the law (A) confers upon the City or upon any board, department or officer for which this charter or ordinance provides a power, right, duty, or role in addition to those for which the charter or ordinance provides, or (B) covers a matter that this charter does not cover." Further, in Chapter 5 of the City Attorney's redline version, Governing Boards and Commissions, Section 5.4(a) explicitly provides that "Each board or commission enjoys all the power for which this charter or any general law, special law or ordinance provides, including any power necessary and proper for exercising its enumerated powers for performing its lawful functions." The CAO believes that these sections clearly address the concerns raised by the Park Board in that they specifically incorporate and reference Minnesota general and special laws that grant the Park Board powers in addition to those contained in the PLCR.

The Park Board has also requested that the CAO reinstate the PLCR proposed language regarding ethics to the PLCR which would specifically authorize any board and commission to provides for its own ethics ordinance. The CAO continues to believe that this Charter Commission language should not be recommended for inclusion in the PLCR since the charter does not discuss the authority for imposing an ethics ordinance, and the City by ordinance already extends the coverage of the City ethics ordinance to the Board of Estimate and Taxation. The current ethics ordinance does not cover the Park Board.

We have concurred with the recommendation of the Park Board that language from Chapter 7.2(j) which would require publication of Park Board actions in the official City newspaper of the City should be removed. Since that requirement is not part of the charter, the CAO agrees that it is appropriate to remove that from the redline version of the CAO PLCR.

### 3. Removal of provision providing for redistricting of Minneapolis school district boundaries.

The CAO redline version of the PLCR provides for the Redistricting Commission (Charter Commission) to set the boundaries for the Minneapolis School Board districts. This was based upon the successful charter amendment on the November 2, 2010, ballot which provided for a change to the charter by eliminating the Redistricting Committee in giving the responsibility for redistricting of City wards, Park Board districts and Minneapolis School Board districts to the Charter Commission. Inclusion of the School Board was based upon a law passed during the 2010 legislative session and approved by the governor on April 1, 2010, which provided that the Minneapolis School District could appoint two members to serve on the Minneapolis Redistricting Commission to replace members of the Commission appointed by the majority minority caucus of the City Council under an existing charter language governing redistricting. Based upon the passage of the law and signature by the governor, this language was included in the charter ballot proposal. However, this law was a special law subject to local approval by the School District which was required to file its certificate of approval with the Secretary of State before the first day of the 2011 regular session. The School District never filed a certificate of approval with the Secretary of State and thus the law never became effective. Under current state law,

school boards remain responsible for setting their election district boundaries. Therefore, we are recommending deletion of this language from the CAO redline version (See, CAO redline PLCR Section 2.4).

**4. Changes related to Planning Commission.**

The proposed PLCR provides in Section 8.2 that there shall be a planning commission with "an appropriate office and staff." The CAO is recommending that the language providing for an office and staff for the planning commission be deleted. The charter provides that the "City Planning Department" shall serve as staff for the City Planning Commission. In order to bring the PLCR in conformity with the charter, we recommend that the cited language be removed and it would be anticipated that the Planning Division of the Community Planning & Economic Department would continue to provide staff for the Planning Commission.

M:drive/ginder/plain language charter revision/Request for City Council Committee Action