



MEMORANDUM

June 26, 2012

LEGISLATIVE DEPARTMENT
Offices of City Council & Clerk
City Hall -- Suites 304 & 307
350 South Fifth Street
Minneapolis, Minnesota 55415
Phone : 612/673-2216
FAX: 612/673-3812

To: Elizabeth Glidden, Chair, Intergovernmental Relations Subcommittee
And: Barbara A. Johnson, Council President
Robert W. Lilligren, Council Vice-President
From: Casey Joe Carl, City Clerk *Casey*
Copy: Susan Segal, City Attorney
Peter W. Ginder, Deputy City Attorney
Grace Wachlarowicz, Assistant City Clerk
Burt Osborne, Assistant City Attorney
Subject: Consideration of the Proposed Plain Language City Charter

BARBARA A. JOHNSON
President of Council

ROBERT W. LILLIGREN
Vice-President of Council

--CITY COUNCIL--

Kevin Reich Lisa Goodman
Ward 1 Ward 7

Cam Gordon Elizabeth Glidden
Ward 2 Ward 8

Diane Hofstede Gary Schiff
Ward 3 Ward 9

Barbara Johnson Meg Tuthill
Ward 4 Ward 10

Don Samuels John Quincy
Ward 5 Ward 11

Robert Lilligren Sandra Colvin Roy
Ward 6 Ward 12

Betsy Hodges
Ward 13

CASEY JOE CARL
City Clerk

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This memorandum responds to your request (email, June 25, 2012) for an analysis of the timeline, process, potential impact, and other relevant issues concerning the so-called "plain language city charter," which the Minneapolis Charter Commission proposes to submit to the electorate in November 2012.

TIMELINE

To achieve its objective, the Charter Commission must formally act to recommend that the question be submitted during the November 2012 General Election. That action must be taken by no later than Tuesday, July 10, which is the statutory deadline imposed under Minn. Statutes 410.12. Currently, the Charter Commission is not slated to meet again until Wednesday, July 11; therefore, we assume the Commission Chair, Barry Clegg, will call a special meeting to occur sometime prior to that deadline. Staff is awaiting confirmation from Mr. Clegg on that point.

Assuming the Charter Commission meets the submission deadline, the matter is referred to the City Council. Under the Council's rules, that introduction and referral would be made at the regular Council meeting on Friday, July 20. In this instance, the matter would be referred to the Intergovernmental Relations Subcommittee of the standing Committee of the Whole. The Subcommittee would make its recommendation, which must be acted upon by the City Council no later than the regular meeting of Friday, August 17.

[See Attachment A for timeline detail and relevant citations.]

LEGAL PUBLICATION REQUIREMENTS

Pursuant to Minn. Stat. 410.10, subd.2, the complete text of the proposed plain-language charter—essentially a revision of the city charter—must be published once each week for two successive weeks in the City's official newspaper, *Finance & Commerce*. Having consulted *Finance & Commerce*, the Clerk's Office estimates the total publication costs will be approximately \$4,400. This is an unanticipated expense that was not provided for in the 2012 City Budget. Thus, the City Council would need to appropriate monies for this purpose from another source, potentially the City's contingency fund.



BALLOT LANGUAGE SUBMITTED TO VOTERS

Due to the substantive nature of the proposed plain-language revision, the Charter Commission has proposed a 300-word summary for submission to the electorate [*See Attachment B*].

Having consulted the City Attorney's Office, it is my opinion, as City Clerk, that the proffered summary is insufficient to meet legal requirements related to the form of the ballot question. The controlling statutory language is found in Minn. State. 410.10, subd. 3, which specifies the ballot language as follows; to-wit:

Subd. 3. Ballot words, form. The ballot shall bear the printed words, "Shall the proposed new charter be adopted? Yes.... No....," with a square after each of the last two words, in which the voter may place a cross to express a choice. If any part of such charter be submitted in the alternative, the ballot shall be so printed as to permit the voter to indicate a preference in any instance by inserting a cross in like manner.

Of course, in this instance, the proposition being recommended is not a new city charter. However, in its *Handbook for Minnesota Cities*, the League of Minnesota Cities advises that any new or completely revised charter should be submitted to voters **in essentially the same form and following the same process as provided by state law for a new city charter**. Consequently, if the City Council chooses to submit the question to the electorate, the Council would need to prepare a sufficient ballot question that conforms to the required language under the controlling statute. Should the City Council choose to proceed in this manner, the City Attorney and City Clerk would draft the appropriate ballot language for consideration.

IMPACT IF BALLOT QUESTION APPROVED

If adopted by voters, a significant portion—in fact, the bulk—of the existing city charter would need to be converted by the City Council into ordinances. While much of these subject matters may not pertain to the “pure governance” of the City, they do, nonetheless, define, prescribe, limit, or extend general and specific municipal powers, services, responsibilities, and other matters which, collectively, help to interpret and apply those governance functions. The discretionary space created by the absence of hundreds of years of judicial action, case law, legal interpretation, and historical experience would potentially frustrate the City's effective operation throughout a protracted transition period until sufficient experience was gained. The City Attorney has identified a number of legal concerns presented by the plain-language charter; the Clerk's Office would echo those comments.

In addition, however, I would point out that each enacted ordinance must, by law, be published before becoming an official act of the City. Therefore, for all matters removed from the city charter that would need to be covered in the form of an ordinance, there would be additional costs for legal notice and publication. These potential costs are unquantifiable at this point, but could be significant. Because of its responsibilities for maintaining and publishing both the city charter and the codified ordinances of the City, the Clerk's Office would be significantly impacted by the work that would be required to convert the various matters removed from the plain-language charter into proper ordinance format and to shepherd those ordinances through the legislative process. No additional funding was requested by the Clerk's Office in the 2013 budget; therefore, if the proposed plain-language charter is adopted by voters, the Clerk's Office would potentially need to seek additional funds to accommodate this increased volume of work.

My office stands ready to respond, as appropriate, to the Charter Commission and the City Council on this matter.

TIMELINE FOR AMENDMENT TO MINNEAPOLIS CITY CHARTER – 2012

DATE	ISSUE	CITATION
May 6	Last day for citizen petition to be filed seeking to amend City Charter	Minn. Stat. 410.10, subd. 1
July 10	Last day for questions to amend City Charter to be submitted for the November General Election	Minn. Stat. 410.12, subd. 1
Aug. 14	<i>2012 Primary</i>	
Aug. 16	Last regularly-scheduled meeting of the Committee of the Whole/JGR Subcommittee to approve ballot questions	
Aug. 17	Last regularly-scheduled meeting of the City Council to formally authorize ballot language, under Rule 4 which finds the regular cycle insufficient to transact the business of the City	
Aug. 24	Municipal clerk must submit ballot language to county auditor – 74 days prior to the scheduled General Election	Minn. Stat. 205.16, subd. 4
Nov. 6	General Election	

MINN. STAT. 410.10 – CHARTER ELECTION; Subd. 1: Timing; procedure; recall. Upon delivery of such draft, the council or other governing body of the city shall cause the proposed charter to be submitted at the next general election thereafter occurring in the city within **six months after the delivery of such draft**, and if there is no general city election occurring in the city within six months after the delivery of such draft, then the council or other governing body of the city shall cause the proposed charter to be submitted at a special election to be held within 90 days after the delivery of such draft. The council or other governing body may call a special election for that purpose only at any time. If the election is held at the same time with the general election, the voting places and election officers shall be the same for both elections. At any time before the council has fixed the date of the election upon the proposed charter, the charter commission may recall it for further action; and the council may authorize recall of the charter by the commission at any later date prior to the first publication of the proposed charter.

MINN. STAT. 410.12 – AMENDMENTS; Subd. 1: Proposals. The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. **Proposed charter amendments must be submitted at least 17 weeks before the general election.** Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

MINN. STAT. 205.16 – NOTICE; Subd. 4: Notice to Auditor. At least 67 days before every municipal election held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office or a special primary for federal office, **at least 74 days before every municipal election held in connection with a regularly scheduled general election for federal, state, county, city, or school board office** or a special election for federal office, and at least 53 days before any other municipal election, the municipal clerk shall provide a written notice to the county auditor, including the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. At least 67 days before every municipal election held in conjunction with a regularly scheduled primary for federal, state, county, city, or school board office or a special primary for federal office, at least 74 days before a regularly scheduled general election for federal, state, county, city, or school board office or a special election for federal office, and at least 46 days before any other election, the municipal clerk must provide written notice to the county auditor of any special election canceled under section 205.10, subdivision 6.

PROPOSED BALLOT SUMMARY

[reproduced exactly]

The Minneapolis Charter Commission proposes that the Minneapolis City Charter be amended in the form of a thorough revision. This revision's purpose is not restructuring the City government or otherwise effecting any substantive change. Its purpose is only modernizing, simplifying, and uncluttering the Charter, and redrafting its provisions for clarity, brevity, and consistency, in plain modern language. When Minneapolis first adopted a city charter in 1920, the first charter commission did not draft a charter from scratch: instead, it simply compiled the special laws then in force affecting the City, and collated them into a loosely organized document that became the first charter. That charter has since undergone about a hundred amendments, often by the City Council, sometimes by referendum, and has now become a highly impractical document: more than 70,000 words long; confusingly organized; full of redundant or conflicting provisions, or provisions long since overridden by statute; cluttered with detail better suited to ordinances; and written in a legalistic style that is more than a century out of date, and practically unintelligible to a nonlawyer (and exceptionally difficult even for lawyers).

The proposed revision reorganizes and rewrites the entire charter, from start to finish, while preserving intact its substance. The revision reorganizes the charter in eight articles, and groups related provisions together. The revision uses plain English.

The revision also reclassifies many provisions from charter to ordinance, without changing the underlying rules. The revision retains a provision in the charter if it affects (1) a citizen's rights, or (2) the relationship among governmental officers and bodies, particularly including (but not limited to) the independence of municipal boards. After four public hearings, the revision contains every provision that any board, citizen, or other interested person or group considered important enough that it belonged in the charter rather than in ordinance.