

MEMORANDUM

TO: Council President, Barbara Johnson
Members of the Minneapolis City Council

FROM: Barry Clegg, Chair Minneapolis Charter Commission

DATE: July 31, 2013

President Johnson and Council Members:

As you know, in May of this year, the Charter Commission placed the Plain Language Charter on the 2013 general election ballot.

Although Minnesota Statutes authorize the Charter Commission to place amendments on the ballot on its own initiative, the City Council has a role to play in determining the form of the ballot. The statute governing the ballot language is Minnesota Statute § 410.12, subd. 4, which provides “The statement of the question on the ballot shall be sufficient to identify the amendment **clearly** and to distinguish the question from every other question on the ballot at the same time.” [Emphasis added].

The Charter Commission, in its transmittal to the City Council, suggested ballot language as follows:

“Shall the Minneapolis City Charter be amended in the form of a revision whose purposes are (1) modernizing, simplifying, and uncluttering the Charter; (2) redrafting its provisions for clarity, brevity, and consistency, in plain modern language; (3) reorganizing the charter into nine articles, with each article covering a single subject, and grouping related provisions together; (4) removing from the Charter detailed provisions better suited to ordinance; and (5) retaining a provision in the charter if it affects a citizen’s rights, or the relationship among governmental officers or bodies, particularly including (but not limited to) the independence of municipal boards?”*

Yesterday, the City Attorney’s Office forwarded their proposed ballot language for the Council’s consideration. Although the City Attorney did not identify any problems with or objections to the proposed Charter Commission language, she proposed substantially different language, as follows:

“Shall the Minneapolis City Charter be amended in the form of a complete revision which reorganizes the Charter into nine articles, and removes certain provisions for possible enactment by ordinance?”*

* There is also a separate substantially identical ballot question concerning liquor provisions.

The City Attorney's proposed language fails the statutory test of clarity and is likely to confuse or mislead voters. It might as well read "shall the Charter be amended to be 51 pages long?" A voter reading the City Attorney's proposed ballot question would not understand the substance of or the reason for the proposed amendment. All a voter would know is that the proposed amendment has nine sections, which is irrelevant to the substance of the amendment. A voter reading the ballot question for the first time would likely be confused and vote against the amendment.

The City Attorney's opposition to the Plain Language Charter is well known and has been expressed to the Council and, oddly (given that the City Attorney's Office represents the Charter Commission) to the media. But we do not believe it is appropriate to propose ambiguous and confusing ballot question language in an attempt to achieve the City Attorney's policy objectives.

In 1974, the Minnesota state Constitution was restated and amended in its entirety. In a project quite similar to the PLC in its objective and scope, the Constitution was modernized, written in plain language and dramatically shortened. The language on the 1974 statewide ballot read as follows:

"Shall the Minnesota Constitution be amended in all its articles to improve its clarity by removing obsolete and inconsequential provisions, by improving its organization and by correcting grammar and style of language, but without making any consequential changes in its legal effect?"

The 1974 ballot question language was not challenged and the restatement of the Constitution passed overwhelmingly.

The Charter Commission requests that the City Council adopt ballot question language either (i) as suggested by the Charter Commission in its transmittal letter to the Council; or (ii) substantially similar to the 1974 state Constitution ballot question.

The Charter Commission would much prefer to work with the Council and the City Attorney's Office to develop objective, descriptive and clear ballot language in compliance with the statutory requirements. We are willing and available to meet and discuss ballot question language that satisfies the requirements of law, which we believe the City Attorney's proposed language does not accomplish. We would hate, after the long decade of work that has gone into the Plain Language Charter, to end up in a legal wrangle over the ballot language (which would need to involve outside counsel, since the City Attorney has been advising both sides up to this point).

Barry Clegg, Chair

cc: Susan Segal, Esq.
Mayor RT Rybak
Minneapolis Charter Commissioners

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