

MINNEAPOLIS CHARTER COMMISSION
MINNEAPOLIS, MN

July 9, 2013

Members of the Minneapolis City Council
c/o City Clerk Casey Carl
City Hall, Room 304
350 S. 5th St.
Minneapolis, MN 55415

Dear Members of the City Council:

Greetings. As you know, after 11 years of work, the Charter Commission has submitted the Plain Language Charter (the "PLC") to you to be on the ballot this November.

I know the City Attorney has expressed some concerns to you about the PLC and I want to address those concerns and ask for your support in November.

The City Attorney has two primary concerns, (i) that adoption of the PLC will have "unintended consequences" because new language will somehow muddy up legal precedent developed over the years or will result in disputes down the road, and (ii) moving provisions from Charter to ordinance will be a lot of work for her office.

"Unintended Consequences"

The City Attorney's concerns about precedent and future confusion are unfounded. The City Attorney's office has now gone through four top to bottom revisions of the PLC over many years. Every single suggestion of the City Attorney has been incorporated verbatim or compromised to her satisfaction. The philosopher Ashleigh Brilliant once wrote "I'm worried about the possible existence of things that would worry me if I knew about them." The City Attorney's fear of "unintended consequences" falls squarely into that category. In addition, the PLC expressly provides that existing precedent remains valid to the extent that a corresponding provision carries forward to the PLC and courts routinely honor such rules of interpretation.

Minneapolis can and should take comfort from other, similar revisions that have been successful on a much larger scale. Forty years ago, the Minnesota Constitution itself underwent a thorough plain language revision, being completely restated and adopted by the voters. There has been no ensuing litigation over "unintended consequences." In the 1970s, the Minnesota legislature revised Minnesota Statutes in order to use nonsexist language and rewrote hundreds of statutes. There was no ensuing litigation. More recently, during the 2000s, the Supreme Court of the United States undertook a restyling project that revised the federal rules of civil procedure, criminal procedure, evidence and appellate procedure, all decades old (and heavily litigated over the years). There has been no subsequent litigation over "unintended consequences."

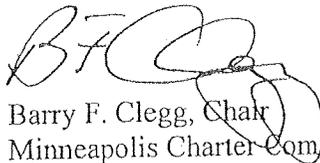
Moving Charter Provisions to Ordinance

The City Attorney is also concerned because she believes "most of the excised 130 pages will need to be reviewed and incorporated into ordinance, requiring substantial staff work." There will certainly be work involved in moving some provisions to ordinance, but not nearly as much as projected by the City Attorney. To allow the City Attorney's office and the Council to make these adjustments, the Charter Commission has provided for an effective date for the PLC one year after adoption - January 1, 2015. The side-by-side comparison of the existing Charter and the PLC, which has been provided to you, itemizes exactly which current Charter provisions don't carry over to the PLC. I recommend taking a look before making up your mind on this issue. Many of the provisions that don't carry over are simply obsolete and could be deleted. For example, our current City Charter contains an entire chapter on the Library Board, which hasn't existed for five years. Our current City Charter also contains provisions (i) authorizing the regulation of "the size and weight of bread", (ii) authorizing the regulation of the "unnecessary discharging of steam" from railroad locomotives, and (iii) authorizing the regulation of the "width of tires of all wheels used on all vehicles used in" the City. Presumably, the Council would not deem it necessary or advisable to move these obsolete provisions, and many others just as silly, to ordinance.

Request for Support

The current City Charter is virtually unreadable, even to most lawyers, and cannot be read in isolation without reference to contradictory provisions in the Charter itself and State special laws, which supersede the Charter. The Charter Commission has long believed that we impair our democracy if the average citizen can't read, understand and interpret the City's "constitution." It's time we follow the example of the complete revision of our own State constitution and bring our Charter into the twenty-first century. We ask your support.

Very truly yours,


Barry F. Clegg, Chair
Minneapolis Charter Commission

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cc: Susan Segal, Esq.

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