

M E M O R A N D U M

FROM: Barret W.S. Lane

TO: City Council Members  
Mayor R.T. Rybak  
Jay Heffern, City Attorney  
Merry Keefe, City Clerk

DATE: October 4, 2004

RE: Completion of Succession Planning Project

As you may recall, we passed a change to the charter establishing a new procedure for succession of the role of "Acting Mayor". The amendment requires us to adopt, by resolution, "a succession plan which will establish the lines of succession for the Mayor . . . consistent with the provisions of this [Charter] section." Mpls. Charter, Chapter 3, Section 2. At the time we acted to change the charter, two issues remained unresolved: (1) the procedure by which the city would determine whether the Mayor or Acting Mayor was "unable to discharge his or her duties" thereby triggering the succession plan and (2) the line of succession for Acting Mayor, if any, beyond the Council President and the Council Vice-President.

Given that there are relatively few elected officials upon whom the position of Acting Mayor may come to rest, I suggest that each Council Member be assigned a place in the line of succession. This would eliminate any confusion in the very unlikely event that the issue would arise. The problem is how to decide who comes before whom in the succession order. Normally, I would anticipate that this issue would be dealt with during the council organizational meeting held every other year. Given that we are almost three years into the current organization, I question whether there is much interest in opening these discussions again. However, in order to have a complete and effective emergency plan, we need to resolve the issue.

I endorse the City Attorney's suggestion that the remainder of the Council be assigned positions in the succession order by lot, at least for the remainder of this term. If the next council chooses to subject this to the usual negotiation of reorganization, they may do so. However this would bring the matter to an expedient and fair resolution with a minimum of controversy. In order to avoid concerns of unfair advantage, I will voluntarily place my name at the end of any succession list developed by lot.

If the council wants to try to negotiate some other resolution, such could be moved as a substitute, either in committee or at the Council meeting. Either way, this issue ought to be resolved.

I plan to introduce this at the IGR committee on October 19, 2004. Please contact me if you have any questions.

-- BWSL

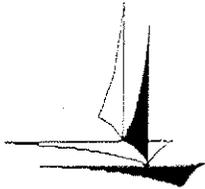
**LANE**

**RESOLUTION OF THE CITY COUNCIL PURSUANT TO MINNEAPOLIS CITY  
CHARTER CHAPTER 3, SECTION 2**

Whereas the Minneapolis City Charter, Chapter 3, Section 2 requires the City Council, by resolution, to adopt a succession plan to address leadership contingencies in the event that the Mayor, City Council President and the City Council Vice president are all unable to discharge the duties of their elected officers;

Now, Therefore, Be It Resolved by the City Council of the City of Minneapolis:

1. That a case-by-case analysis, accompanied by written findings, shall be used to determine when the Mayor, City Council President and the City Council Vice-President, or any person holding the position of acting-Mayor, have become unable to discharge their duties; and
2. That the City Clerk is directed to immediately determine the City's line of succession by random lot of the eleven (11) members of the City Council who do not hold the position of City Council President or City Council Vice President and that this line of succession be in effect until January 31, 2006 or whenever the plan is readopted or modified, pursuant to paragraph 3 of this resolution, whichever comes first; and
3. That the City Clerk is directed to determine the City's line of succession by random lot of the eleven (11) members of the City Council who do not hold the position of City Council President or City Council Vice President:
  - a. by January 31<sup>st</sup> of each year after a general municipal election unless the City Council has acted before that date to establish a line of succession, and
  - b. within thirty (30) days after the council acts to change the council member holding the position of City Council President and/or City Council Vice President unless the council has acted before that time expires to establish a line of succession; and
  - c. within thirty (30) days after a council member or mayor assumes office after a special election unless the council has acted before that time expires to establish a line of succession.



**Minneapolis**  
City of Lakes

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TO: Council President Paul Ostrow  
Council Vice President Robert Lilligren  
Council Member Barret Lane  
Deputy Mayor David Fey  
Assistant City Clerk Steve Ristuben

FROM: Jay M. Heffern  
City Attorney

DATE: January 14, 2004

RE: Line of Succession Plan

## MEMORANDUM

### INTRODUCTION

In the aftermath of the September 11, 2001 attacks, it became apparent that more extensive succession planning was needed at all levels of government to keep government business running in worst-case disaster or attack scenarios. Minneapolis emergency preparedness training in March 2002 underscored the importance of clarity regarding who is in charge in Minneapolis during an emergency.

### BACKGROUND

Partially in response to those needs, the City Council amended the Minneapolis City Charter to better delineate the "line of succession" in Minneapolis. Chapter 3, Section 2 of the Charter, as amended, now reads:

**Section 2. (a) City Council--Election of President and Vice--President--Their Duties.** At the first meeting of the City Council in January of each year after a general municipal election they shall proceed to elect by ballot from their members a President and Vice-President.

(b) *Succession--Mayor and Council President--Duties and Succession.* If the Mayor is unable for any reason to discharge his or her required duties, a member of the City Council shall serve as Acting Mayor. The line of succession for Acting Mayor shall be the Council President, Council Vice-President, and then as determined by resolution of the City Council. Acts performed by the Acting Mayor shall have the same force and validity as if performed by the Mayor.

In case the President is absent from any meeting of the City Council, the Vice-President shall discharge the duties of such President and act in the President's place. In case the Vice-President also is absent from the same meeting of the City Council, the City Council shall select a Chair pro tem in accordance with Robert's Rules of Order.

Within ninety (90) days after the effective date of this subsection, and, thereafter, at the first meeting of the City Council in January of each year after a municipal general election, the City Council shall, by resolution, adopt a succession plan which will establish the lines of succession for the Mayor and the Council President consistent with the provisions of this section. (As amended 12-31-73; 83-Or-234, § 3, 9-30-83; 2002-Or-163, § 1, 10-25-02)

Charter Chapter 3, Section 2, requires the City Council to adopt, by resolution, an initial succession plan and, thereafter, at the first council meeting in January of each year after the general municipal election.

### ISSUES

The amended Charter provision raises two issues: (1) how will the City Council determine that an elected official is "unable for any reason to discharge his or her required duties" and (2) how should the City Council determine the line of succession if the Mayor, Council President and Council Vice President are unable to serve.

#### A. Unable to Discharge Duties

The case law analyzing when an elected official is unable to discharge his or her duties is sparse and not helpful. Attempting to clearly define what the phrase "unable to discharge his or her duties" means, or was intended to mean, might give the City some direction. However, there are numerous situations that could arise when an elected official would be "unable" to discharge his or her duties of office. Because of these variables, I recommend that the City Council not define this standard at this time. Rather, I recommend that the issue of an elected official's ability to discharge his or her duties of office be addressed on a case-by-case basis.

#### B. Line of Succession

The second issue is the process for determining the line of succession in the event the Mayor, the Council President and the Council Vice-President are all unable to discharge their required duties. Although a variety of different methods exist for selecting who would be next in line (such as, seniority on the City Council or party affiliation), I recommend that the City's line of succession be determined by lot. The remaining eleven (11) wards (excluding the Council President's and the Council Vice-President's wards) would be entered into a "drawing" to be conducted by the City Clerk. The Council Member of each of the remaining wards, in the order they were drawn by the City Clerk, would be next in the line of succession in the event the Mayor, Council President and the Council Vice-President all are unable to discharge their duties. After the initial succession plan is adopted by City Council resolution, the City Council would adopt a new succession plan and resolution at the first meeting of the City Council in January of each year after the general municipal election.

Attached is a draft resolution for your consideration. After you have had an opportunity to review it, I suggest we meet and discuss how to proceed.

**RESOLUTION OF THE CITY COUNCIL PURSUANT TO MINNEAPOLIS  
CITY CHARTER CHAPTER 3, SECTION 2**

Whereas, the Minneapolis City Charter, Chapter 3, Section 2, requires the City Council, by resolution, to adopt a succession plan to address leadership contingencies in the event the Mayor, City Council President and the City Council Vice-President all are unable to discharge the duties of their elected offices;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That a case-by-case analysis, accompanied by written findings, shall be used to determine when the Mayor, City Council President, City Council Vice-President, or any person holding the position of acting-Mayor, have become unable to discharge their duties.

Be It Further Resolved by The City Council of The City of Minneapolis:

That the City Clerk is directed to determine the City's line of succession, by random lot, of the eleven (11) members of the City Council, who do not hold the position of City Council President or City Council Vice-President. The City Clerk, or her designee, shall conduct the lottery for the City's line of succession within thirty (30) days after the effective date of this resolution and, thereafter, by January 31<sup>st</sup> of each year after a general municipal election.