



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

Date: January 21, 2004

To: Intergovernmental Relations Committee

Subject: Proposed Amendments to the Minneapolis City Charter Regarding Contract and Bond Signature Requirements, Delegation of the City Council's Contracting Authority, and the Payment of City Obligations

Recommendation: That the IGR Committee set a public hearing on the proposed changes to the Minneapolis City Charter, Chapter 3, Section 1, 5, 11, 12 & 16, the proposed addition to the Minneapolis City Charter of Chapter 4, Section 25, the proposed changes to the Minneapolis City Charter, Chapter 5, Section 24, and the proposed changes to the Minneapolis City Charter, Chapter 15, Section 9 for Tuesday, February 10, 2004 at 9:30 and directs the City Clerk to publish the appropriate notice.

Prepared or Submitted by: Jay M. Heffern, City Attorney, 673-3272

Approved by _____
Jay M. Heffern
City Attorney

Patrick Born
City Finance Officer

Presenters in Committee: Patrick Born, City Finance Officer & Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)

Action requires an appropriation increase to the Capital Budget

Action requires an appropriation increase to the Operating Budget

Action provides increased revenue for appropriation increase

Action requires use of contingency or reserves

Other financial impact (Explain):

Request provided to the Budget Office when provided to the Committee Coordinator

Background/Supporting Information

On January 7, 2004, the Charter Commission submitted to the City Clerk's office the following proposed amendments to the Minneapolis City Charter, requesting the City Council to approve the amendment by a 13-0 vote.

Please note that after the proposed Charter amendments were first considered and moved forward by the City Council at its November 7, 2003 meeting, and after your Committee referred the proposed Charter Amendments to the Charter Commission for consideration, two additional Charter sections were added to the group of proposed amendments to make the entire Charter consistent on the subject issue. Those new proposed amendments were to Chapter 3, Section 12 and Chapter 15, Section 9, as indicated below. At the January 7, 2004 Charter Commission meeting, the Commission approved various technical amendments to the original group of proposed Charter amendments, and approved the new proposed amendments to the sections of the Charter cited above.

Because the City Council had not previously introduced the subject matter of the two new proposed Charter amendments cited above, the City Council introduced the subject matter of an ordinance relating to the new proposed amendments at its regular January 16, 2004 meeting, and referred the entire package of proposed amendments to your Committee to set a public hearing and for ultimate consideration by your Committee.

The complete language of the proposed amendments, as approved by the Charter Commission and referred to your Committee, is as follows:

By Johnson

Amending Chapter 3, Section 1 of the Minneapolis City Charter relating to Powers and Duties of Officers amending signature requirements for contacts.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Chapter 3, Section 1 of the Minneapolis City Charter be amended to read as follows:

Section 1. Powers and Duties of Mayor. The Mayor shall take care that the laws of the State and the ordinances of the City are duly observed and enforced within the City. The Mayor shall take care that all other officers of the City discharge their respective duties, and to that end may maintain an action of mandamus or other appropriate action against any delinquent City officer.

The Mayor shall address the City Council annually on the state of the City proposing therein plans and programs for the physical and economic development of the City. The Mayor shall make recommendations for legislation and other actions would assist in such physical and economic development of the City and shall from time to time give the City Council such information and recommend such measure(s) as may be deemed advantageous to the City.

As part of the State of the City message, the Mayor shall set forth the goals the City should accomplish in the fiscal year that begins on January 1st of the next calendar year. The City Council shall review the proposed goals, make any desired amendments thereto, and approve them prior to the Mayor's budget submission to the City Council for the following fiscal year as directed in Chapter 5, section 8, of the Charter.

All ordinances, resolutions and other action of the City Council, except those related to its organization, rules or procedures, shall, before they take effect, be presented to the Mayor, and if (the Mayor) approves thereof, the Mayor shall sign the same, and such as shall not be signed, the Mayor shall return to the City Council, with his or her objections thereto, by depositing the same with the City Clerk, to be presented to the City Council at their next meeting thereafter. Upon the return of any ordinance, resolution or other action of the City Council by the Mayor, the vote by which the same was passed shall be deemed to have been reconsidered, and the question shall be again put upon the passage of the same, notwithstanding the objections of the Mayor, and if upon such vote the City Council shall pass the same by a vote of two-thirds of the members of the Council, it shall have the same effect as if approved by the Mayor. If any ordinance, resolution or other action of the City Council shall not be returned by the Mayor within five days, Sundays excepted, after it shall be presented to the Mayor, the same shall have the same force and effect as if approved by the Mayor.

~~The Mayor or one (1) person designated in writing by the Mayor, said designation to be on file with the City Clerk and the City Attorney, under the Mayor's direction shall sign all contracts made for the City of Minneapolis, by authority of the City Council.~~

All ordinances, resolutions, and other actions of the Park and Recreation Board, except those related to its organization, rules or procedures, shall, before they take effect, be presented to the Mayor, and if the Mayor approves thereof, the Mayor shall sign the same, and such as shall not be signed, the Mayor shall return to the Board, with his or her objections thereto, by depositing the same with the secretary of the Board, to be presented to the Board at their next meeting thereafter. Upon the return of any ordinance, resolution, or other action of the Board by the Mayor, the vote by which the same was passed shall be deemed to have been reconsidered, and the question shall be again put upon the passage of the same, notwithstanding the objections of the Mayor, and if upon such vote the Board shall pass the same by a vote of two-thirds of the members of the Board, it shall have the same effect as if approved by the Mayor. If any ordinance, resolution, or other action of the Board shall not be returned by the Mayor within five (5) days, Sundays excepted, after it shall be presented to the Mayor, the same shall have the same force and effect as if approved by the Mayor. The Mayor may call special meetings of the Park and Recreation Board by notice to each of the members, to be delivered personally or left at their usual places of abode. At such special meeting no other business shall be transacted than such as its designated in the call.

Notwithstanding any provisions of the Minneapolis City Charter and Minnesota Statutes 422A.02 and 423.72 to the contrary, whenever the Charter or said state laws provide that the Mayor be a member of any board, commission or department, the Mayor may appoint or designate a representative to serve in place of the Mayor on such

board, commission or department for a term of office not to exceed the Mayor's own term. Such representatives shall be citizens of the state and residents of the City.

Section 2. That Chapter 3, Section 5 of the Minneapolis City Charter be amended to read as follows:

Section 5. City Clerk-Election-Duties. There shall be a clerk of said City, styled the "City Clerk," who shall be elected by the City Council.

The Clerk shall keep the corporate seal and all the papers and records of the City, and keep a record of the proceedings of the City Council, at whose meetings it shall be the Clerk's duty to attend.

Copies of all papers filed in the Clerk's office and transcripts from the records of the City Council certified by the Clerk under the corporate seal shall be evidence in all courts the same as if the originals were produced.

~~The Clerk shall draw and sign all orders on the Finance Officer in pursuance of any order or resolution of the City Council, and keep a full and accurate account thereof in books provided for that purpose.~~

The Clerk shall have power to administer oaths and affirmations and shall perform all other services by law required of clerks of cities or townships, within said City.

The Clerk shall pay into the city treasury, upon the last day of each month, all fees and moneys, allowed by public law and collected by the Clerk during that month, and shall hold office for the term of two (2) years, beginning with the day such person is qualified as clerk.

The Clerk may, by and with the consent of the City Council, employ such clerical and other staff as may be necessary.

Section 3. That Chapter 3, Section 11 of the Minneapolis City Charter be amended to read as follows:

Section 11. Finance Officer-Powers and Duties-Assistant Finance Officer. Pursuant to, and subject to the limitations of, Minnesota laws of 1983, Chapter 160, the City Council may, by ordinance, provide the manner of appointment and prescribe the functions, duties and responsibilities of the Finance Officer. The Council may also designate by such ordinance a title for the Finance Officer. Except as is or may be otherwise provided by any such ordinance or by the aforementioned statute, the Finance Officer shall have all the powers, duties, functions, responsibilities, and ex officio positions heretofore vested by charter or statute in the Comptroller-Treasurer of the City. It shall be the duty of the Finance Officer to keep regular books of account, both of the City of Minneapolis and of the several boards of said City, in which the Finance Officer shall enter all indebtedness of said City, and which shall at all times show the precise financial condition of the City and of said several boards, the amount of bonds, orders, certificates or other evidences of indebtedness outstanding, and the redemption of the same when redeemed.

The Finance Officer may, by and with the consent of the City Council, appoint an Assistant Finance Officer who shall assist in the duties of the office and act as Finance Officer in the absence or in case of the inability of the Finance Officer, to act. ~~The Finance Officer may from time to time designate in writing a person regularly employed in the office to act as Finance Officer in the event of the simultaneous absence or inability to act of both the Finance Officer and assistant Finance Officer.~~

Section 4. That Chapter 3, Section 12 of the Minneapolis City Charter be amended to read as follows:

Section 12. Finance Officer to Countersign Sign Bonds, Etc. The Finance Officer shall ~~countersign~~ sign all bonds, orders, certificates or other evidences of indebtedness of the city, or any board thereof, and no such bond, order, certificate or other evidence of indebtedness shall be valid until so ~~countersigned~~ signed.

Section 5. That Chapter 3, Section 16 of the Minneapolis City Charter be and is hereby repealed.

~~**Section 16. Finance Officer To Countersigned Contracts.** The Finance Officer shall countersign all contracts made in behalf of said City, and no such contract shall be valid until so countersigned. The Finance Officer shall keep a book and shall enter all contracts, which shall be open to the inspection of all parties interested in the book. The Finance Officer shall not, directly or indirectly, be interested in any contract or job to which the City or any board thereof is a party.~~

Section 6. That Chapter 3 of the Minneapolis City Charter be amended by adding thereto a new Section 16 to read as follows:

Section 16. Finance Officer - Execution of City Contracts. The Finance Officer shall sign all bond documents and documents conveying City interest in real estate. The Finance Officer shall sign all City contracts except for those contracts of limited amount and limited terms delegated by the City Council to be signed by a particular designee. The Finance Officer may designate up to two persons regularly employed in the office to sign City contracts on behalf of the Finance Officer. The designees shall have the same authority to sign City contracts as the Finance Officer, except for bond and real estate conveyancing documents.

The Finance Officer shall cause to be kept all records of all City contract documents, including the authority to enter into a contract and any other records the Finance Officer deems necessary. The Finance Officer may establish those administrative procedures necessary for the management of City contracts.

By Johnson

Amending Chapter 4 of the Minneapolis City Charter relating to City Council--Powers--Duties, Etc.* by adding a section relating to City Council's power to contract.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Chapter 4 of the Minneapolis City Charter be amended by adding thereto a new Section 25 to read as follows:

Section 25. Council may delegate its Power to Contract. The City Council may delegate by resolution the power to make and execute contracts on behalf of the City to certain persons or to certain position titles within the City. The delegated authority to make and execute contracts on behalf of the City shall be only for contracts of a limited dollar amount and a limited term as approved by the City Council. All contracts made under the authority of this section shall be in a written form approved by the City Attorney.

By Johnson

Amending Chapter 5 of the Minneapolis City Charter relating to Taxation and Finance by amending Section 24 relating to the payment of City obligations.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Chapter 5, Section 24 of the Minneapolis City Charter be amended to read as follows:

Section 24. City Orders – When Issued. Payment of City obligations. No money shall be paid out of the City Treasury, except for principal or interest of bonds, unless such payment shall be authorized by a vote of the City Council, and shall then be drawn out only upon orders signed by the Mayor and Clerk and countersigned by the Finance Officer, which orders shall specify the purpose for which they were drawn, and the funds out of which they are payable, and the name of the person in whose favor they may be drawn, and may be made payable to the order of such person or to the bearer, as the City Council may determine. ~~Provided that~~ The City Council may provide by ordinance for the payment of all employees of said City, which are paid by order of the City Council, on payrolls, to be prepared as directed by said ordinance, by heads of departments or otherwise, audited by the City Finance Officer, ordered paid by said City Council, after so being audited, and paid by the City Finance Officer which payrolls shall be retained by said Finance Officer, ~~along with cancelled checks for the sum totals of such payrolls.~~ And also, further provided, that when any of the several boards of said City shall by resolution request the City Finance Officer to pay the respective regular employees on payrolls of the board making such request, in a similar manner as above named for paying employees who are paid by order of the City Council, then said City Finance Officer shall pay the respective regular employees of such Board so requesting the same on such payrolls.

By Johnson

Amending Chapter 15, Section 9 of the Minneapolis City Charter relating to Board of Estimate and Taxation amending signature requirements for bonds or obligations.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Chapter 15, Section 9 of the Minneapolis City Charter be amended to read as follows:

Section 9. To Incur Indebtedness for Municipal Purposes on Request of Council. Upon the request of the City Council expressed by ordinance or resolution adopted by the votes of two-thirds of all members thereof, the Board of Estimate and Taxation in its discretion shall have power by a vote of at least five (5) of its members to incur indebtedness for municipal purposes other than the purchase of public utilities and to pledge the credit of the city for the payment of principal and interest and for that purpose shall have power to issue and sell negotiable bonds of the city or any other form of obligation it may deem best, but any such bonds or obligations shall be sold only in the manner provided by Section 1856, General Statutes 1913, to the purchaser who will pay the highest price therefor at the rate of interest fixed by the Board of Estimate and Taxation and the obligations or bonds shall be drawn accordingly; provided, that where, with respect to any and all types and forms of obligation or indebtedness authorized by this Charter and by the laws of the State of Minnesota, the aggregate amount of any such obligations or indebtedness to be issued or incurred for any improvement, including but not limited to acquisition, development, construction or betterment, of any public building, stadium, or other capital improvement project, shall in all phases from inception to completion exceed Fifteen Million Dollars (\$15,000,000.00), the Board of Estimate and Taxation shall not issue or sell any bonds or other obligations nor incur any indebtedness for such purpose without the approval of a majority of the electors voting on the question of issuing such obligations or incurring such indebtedness at a general or special election. The forgoing proviso shall become effective immediately upon its adoption pursuant to Minnesota Statutes Chapter 410. Any premium received from the sale of such bonds shall revert to the sinking fund provided for the redemption of such bonds. Any such bonds or obligations shall be signed by the ~~Mayor and the City Clerk~~ Finance Officer under the city corporate seal and shall be countersigned by the President of the Board of Estimate and Taxation ~~and by the City Finance Officer~~. If the proceeds of the bonds or obligations be intended for the use of any board or department the expenditures of which are not controlled by the City Council, there shall be in addition to the request by the City Council, a like request expressed by ordinance or resolution adopted by the governing board of such department by the vote of at least two-thirds of the members thereof. The proceeds of such bonds or obligations shall be put into the City Treasury and credited to the proper fund.

Conclusion

Under Minnesota Statutes, Section 410.12, Subd. 7(2002), the City Council may enact charter amendments by ordinance. The statute requires that such an ordinance be adopted by an affirmative vote of all members of the City Council after a public hearing. The notice of the hearing must be published two weeks prior to the hearing and contain the text of the proposed amendment. An ordinance amending the City Charter does not become effective until 90 days after passage and publication of the ordinance or at such later date as may be set in the ordinance. Within 60 days after passage and publication of such an ordinance, a petition requesting a referendum on the ordinance may be filed

with the City Clerk. Such petition must be signed by qualified voters equal to 2% of the total number of votes cast in the City at the last general election or by 2000 qualified voters, whichever is less.