



Minneapolis
City of Lakes

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TO: Charter Revision Work Group Members

FROM: Dana Banwer, Assistant City Attorney

DATE: October 27, 2009

RE: Charter Review – Park Board

MEMORANDUM

OVERVIEW

The Charter Revision Work Group plan requires this office to review the proposed revisions and provide an overview as to specific changes in the Charter that would affect various City departments. This memo addresses the sections related to the enumerated powers of the Minneapolis Park and Recreation Board (“Park Board”). The specific issues raised are as follows:

- 1) Whether general language changes such as declaring the Park Board to be a “body corporate and politic” alters the nature of the Park Board?
- 2) Whether the proposed revisions significantly increase the Park Board’s powers?
- 3) Whether the City may legally declare the Park Board to be a “body corporate and politic”?
- 4) What impact does removing appraiser and assessment provisions from the Charter and transferring them to ordinance have on the Park Board and the City?

ANALYSIS

I. General Language Changes

Unlike other portions of the proposed Charter revision, there is no generally accepted model charter language dealing with independent Boards such as the Park Board. As such, there are no suggested or ideal descriptors to discuss the Park Board powers.

Members of this office who reviewed earlier drafts of the proposed Charter revision unanimously concluded that the proposed Charter revision language (found in Chapter 7 of the proposed revision) appears to alter the scope of the Park Board’s powers and changes the Park Board’s relationship with the City.

A. Removal of Language Regarding Park Board as Department of the City of Minneapolis

The City’s current charter explicitly states that the Park Board is a department of the City:

The Park and Recreation Board of the City of Minneapolis and its successors, shall be a department of the government of said City and shall be the successor to and a continuation of the Board of Park Commissioners of the City of Minneapolis, and shall consist of nine commissioners. All funds, property, or other assets, all obligations and liabilities of any nature, and all ordinances, regulations and actions of all kinds and all powers, duties and privileges heretofore provided by statute or by this Charter for the Board of Park Commissioners of the City of Minneapolis shall in all respects be those of the Park and Recreation Board of the City of Minneapolis.

Charter Chap. 16, Sec. 1.

The proposed Charter revision states that the City provides for parks “through the Park and Recreation Board. See proposed Charter revision at Sec. 7.2(a)(2). This change in wording appears to alter the status of the Park board from a “department of the City,” as the current Charter specifies, to an entity with broader powers and, combined with other changes contained in the proposed Charter revision, may have the effect not only of altering the Park Board’s powers but also of altering the Park Board’s relationship, vis-à-vis powers exercised, with the City.

B. The City and the Park Board as Entities “body corporate and politic”

The proposed Charter revision specifically declares that the Park Board is now a “body corporate and politic.” See proposed Charter revision Sec. 7.2(b). The proposed revision also states that the City is a “body corporate and politic” at § 1.1. The current Charter does not use this phrase, nor does it appear in the model charter. It does not seem to be generally used in charters in Minnesota. See Charter of St. Paul at ch. 1 § 1.01 (stating that St. Paul is a “municipal corporation”); Charter of Ada at ch. 1 § 1.01 (stating that Ada is a “municipal corporation”); Charter of Bayport at ch. 1 § 1.01 (stating that Bayport is a “municipal corporation”); Charter of Stillwater at ch. 1 § 1.01 (stating that Stillwater shall be a “municipal corporation.”).

“Municipal corporation” seems to be the preferred term for entities such as the City of Minneapolis. It appears at least 68 times in Minnesota Statutes, and, as noted above, is widely used to denote a charter City such as Minneapolis. The Minnesota Courts have noted that the term “municipal corporation” “in its broadest and ordinarily accepted sense applies to any public local corporation exercising some governmental functions.” *Lenz v. Coon Creek Watershed Dist.*, 153 N.W.2d 209, 221 (Minn. 1967). The City has been a “municipal corporation” since prior to the passage of the City’s Charter. See Minneapolis Charter Chap. 1 Sec.1 (stating that the City “shall continue to be a municipal corporation”). It is unclear what changes would result if the City became a “body corporate and politic” rather than a “municipal corporation” but it is clear that the City would be relying upon an entirely different, relatively untested definition than the well-known, well-established “municipal corporation” definition.

Black's Law Dictionary does not define the phrase "body corporate and politic." A search for "body corporate" in Black's Law Dictionary redirects to the term "corporation." Black's Law Dictionary does define body politic as "a group of people regarded in a political (rather than private) sense and organized under a common governmental authority." When the term is used in Minnesota law, it seems generally to refer to special-purpose districts and agencies rather than cities. See, e.g., Op.Atty.Gen., 414-C-3, Jan. 20, 1950 (soil conservation district was governmental subdivision of state, and public body corporate and politic); Minn. Stat. § 3.732 subd. 1 (1) (defining the term "state" to exclude "a city, town, county, school district, or other local governmental body corporate and politic"); Minn. Stat. § 41B.025 (creating public

body corporate and politic to be known as the Minnesota Rural Finance Authority). Park districts, which are single-or multi-county entities formed to administer park land, are also bodies corporate and politic. *See* Minn. Stat. § 398.01. Cities of the first class are specifically excluded from the park districts. *Id.*

The current Minneapolis Code of Ordinances only uses the term to refer to agencies and authorities such as the Minneapolis Community Development Agency, the Indian Housing Authority, and the Housing and Redevelopment Authority.

It is unclear whether any significant changes would result from declaring the City or the Park Board a "body corporate and politic." It is clear, however, that the term is not generally used in Minnesota to denote either a charter city or an independent board.

Further, by designating both the City and Park Board as "bodies corporate and politic," the proposed Charter revision alters the structure of the existing charter which designates the Park Board as a "department" of the City. The proposed revision appears to characterize the City and Park Board as co-equal entities.

II. Expansion of Park Board Powers

The proposed Charter revision states that the Park Board "enjoys all the City's lawful powers" when acting on behalf of the City. *See* proposed Charter revision § 7.2 (a)(2). In addition, the proposed Charter revision states that the Park Board:

...may also, without regard to this charter, exercise any power, right, or role for which the law (including but not limited to 1889 Minnesota Special Laws, chapters 30 and 103) provides in addition to those for which this charter provides.

Id. at (3). Finally, the proposed Charter revision states that the Park Board, as noted above, is a "body corporate and politic" and:

in the exercise of its general functions and powers, may:

- (1) adopt a seal
- (2) make contracts
- (3) buy and sell property
- (4) accept and administer, invest, or otherwise dispose of gifts
- (5) sue and be sued and
- (6) exercise any other lawful power that a municipal corporation enjoys at common law or by general or special law.

Id. at § 7.2(b). In short, the proposed revisions appear to grant to the Park Board additional powers, e.g., right to use and be sued, and all the powers of a municipality.¹ As the Charter is currently configured, the Park Board is a Board of limited and specific powers:

The Park and Recreation Board of the City of Minneapolis and its successors shall have the power and it shall be its duty to devise, adopt and maintain parks and parkways in

¹ In the proposed revised Charter, the city's grant of power is found in § 1.4, which states that the City may "exercise any power that a municipal corporation can lawfully exercise."

and adjacent to the City of Minneapolis, and from time to time to add thereto; to designate lands and grounds to be used and appropriated for such purpose; to cause the same to be platted, surveyed, and plats thereof filed in the office of the Secretary of said Board, and in the office of the Department of Public Works of the City of Minneapolis; and the right to take possession upon obtaining title to the same or any part thereof, to hold, improve, govern and administer the same for such purposes.

The said Park and Recreation Board, and their successors, shall have power, and it is hereby authorized, to obtain title for and in the name of the City of Minneapolis, to any lands so designated by it for the purpose of this Chapter, by gift, devise, purchase or lease. And said Board may enter into any contract in the name of said city, for the purchase of any lands to be paid for in such time, or times, and in such manner as the Board may agree to; and said Board may accept title to lands and give back a mortgage or mortgages in the name of said city, with or without bonds to secure the unpaid purchase price. Provided, that no personal or general liability on the part of said city shall be created by any such contract, or mortgage, or bond beyond the means at the time available therefore, except the liability to pay such amount as may be realized from benefits assessed on benefited property on account of the lands included in such contract or mortgage.

And it is hereby made the duty of said Board to pay on each such contract or mortgage an amount equal to the sum or sums so realized from such assessments; and said Board shall have power to accept and receive donations of money, property or lands, for the use of the said city for the purposes contemplated in this Chapter.

Charter Chap. 16, Sec. 2. The changes in the proposed revision are significant. Though the Park Board has long retained its own legal counsel and somewhat functioned as a separate entity, the Charter placed limitations on the scope of the Park Board's powers. The proposed Charter revision makes the City and the Park Board co-equal bodies at law.

III. Establishing the Park Board as a "body corporate and politic" is Contrary to Law and Public Policy.

Recently, a group of citizens submitted a petition proposing a Charter amendment related to the Park Board's independence to the Minneapolis Charter Commission. The Charter Commission transmitted the petition to the City Council pursuant to its duty to do so under Minn. Stat. Sec. 410.12, for placement on the November ballot. The text of the proposed amendment read as follows:

The Minneapolis Park and Recreation Board shall be a separate and independent governmental unit of the State of Minnesota with an elected board of commissioners. The Park and Recreation Board shall preserve and protect park land, lakes and open spaces as a public trust forever and shall have all the powers and rights of a separate and independent governmental unit of the state as determined by the state legislature. The Mayor of Minneapolis shall have the right to veto the Park and Recreation Board's

legislative actions and budget, subject to the ability of Park Board to override a veto by two-thirds (2/3rds) vote.

When, upon the advice of this office, the City Council refused to place the proposed amendment on the ballot, the citizen group sued to City seeking a writ of mandamus requiring the City to place the issue on the ballot, and correction of ballot error. The City opposed the citizen group's claim stating that the proposed amendment is unconstitutional, is preempted by state law, and is contrary to public policy. The City moved the court for summary judgment and asked that the case be dismissed.

Following submission of briefs and oral argument, the Honorable Cara Lee Neville, of the Fourth Judicial District denied the citizen group's motion for a writ of mandamus, for correction of ballot error, and granted the City's motion to dismiss by summary judgment. Finding that the proposed Charter amendment violates Article XII, §3 of the Minnesota Constitution because it creates a state governmental unit, without authority to do so, Judge Neville found the proposal "manifestly unconstitutional". See Order and Memorandum, pp. 10-11. In addition, finding that the proper entity to create another state governmental unit is the legislature, the court found that the proposed Charter amendment is expressly preempted by state law, which occupies the filed concerning the subject matter. *Id.* pp 16-17. Finally, the court found that the proposed Charter amendment is contrary to public policy because it is an unconstitutional grant of power to the City to create a separate governmental unit. *Id.* p.18.

The constitutional, preemption and public policy issues are more fully discussed in the Memorandum to Mayor and Council Members from Peter Ginder, dated August 25, 2009.

Because the proposed Charter revision establishes the Park Board as a "body corporate and politic", and authorizes it to exercise any powers available to a municipal corporation, it places the Park Board on equal footing with the City. Were the City to approve this amendment, it appears that the City would be removing a department of the City and effectively creating a separate unit of government, in violation of the Minnesota Constitution, state law, and public policy.

IV. Removal of Certain Park Board Powers to Ordinance

The proposed revised Charter contemplates removing significant portions of the Park Board chapter to ordinance. Of greatest significance is the proposal to move all language regarding appraisers and assessments to ordinance. The current Charter provisions relating to appraisal and assessment of land are outlined in the side-by-side comparison, incorporated within this memorandum.

Moving these provisions to ordinance is in keeping with the philosophy of the Model Charter for Minnesota Cities, which the comments state "is based on the modern drafting principles that a charter should deal only with fundamentals, leaving to the council by ordinance the authority to provide more detailed regulations as they are needed." Moving provisions to ordinance, however, results in a significant difference as to how easily those provisions may be altered. Amending a Charter provision requires either a 13-0 vote of the City Council or a majority popular vote in favor of a ballot question. Amending an ordinance, however, requires

only a majority vote of all Council Members (or Park Board Commissioners) present. Shifting the specific powers of Charter Chap. 16 Sec. 3-4 to ordinance will mean that those powers can be much more easily changed, or even eliminated, by the Park Board or the Council.

Further, the elimination of these provisions appears to delegate additional taxing powers to the Park Board relating to assessments. As this office noted in its review of the 6th draft:

[T]he Revised Charter does not define the term "local improvement" for which the City of Minneapolis Council and Park Board are empowered to enact assessment ordinances. This opens the door to an expansion of the categories of costs that may be assessed. Another change resulting from the omission of the Charter's assessment procedures is that the City Council and Park Board would be empowered to enact and change the ordinance provisions without the stringent requirements necessary to amend a charter.

Following is a side-by-side comparison of the current Charter provisions (left-hand side) related to the Park Board with the proposed Charter revisions (right-hand side).

Current Charter	Proposed Charter Revision
Chapter 16 Parks and Parkways	
§ 1. Park and Recreation Board—Election—Terms of Office	
<p>The Park and Recreation Board of the City of Minneapolis and its successors, shall be a department of the government of said City and shall be the successor to and a continuation of the Board of Park Commissioners of the City of Minneapolis, and shall consist of nine commissioners. All funds, property, or other assets, all obligations and liabilities of any nature, and all ordinances, regulations and actions of all kinds and all powers, duties and privileges heretofore provided by statute or by this Charter for the Board of Park Commissioners of the City of Minneapolis shall in all respects be those of the Park and Recreation Board of the City of Minneapolis.</p>	
<p>At the general City election in 1975, the electors of the entire City shall elect three (3) Commissioners at large, one (1) for a term of two (2) years and two (2) for a term of four (4) years each. The term of the Commissioner elected by the least number of votes at said election shall be two (2) years and the terms of the other two (2) commissioners elected shall be four (4) years. At the general City election in 1977 and every four (4) years thereafter, the electors of the entire City shall elect one Commissioner-at-large for a term of four (4) years and the electors residing in each even-numbered Park and Recreation District shall elect from their respective districts one (1) Commissioner for a term of four (4) years. At the general City election in 1979 and every four (4) years thereafter, the electors of the entire City shall elect two (2) Commissioners-at-large for a term of four (4) years each and the electors residing in each odd-numbered Park and Recreation District shall elect from their respective districts one (1) Commissioner for a term of four (4) years. Commissioners serving at the time this amendment [adopted November 4, 1975] takes effect shall continue in office for the balance of their respective terms.</p>	<p>[§ 7.3(a)] Composition. The Board comprises nine commissioners, elected in each general election in which a Mayor is elected: (1) three commissioners at large, and (2) six commissioners elected by district.</p>
<p>There are hereby created six Park and Recreation Districts</p>	<p>[§ 2.3(a)]</p>

within the city, <i>each of which shall be composed of the area presently contained within the election precincts listed opposite the respective Park and Recreation District as follows:</i>	Number. The City comprises six park districts, designated by number.
<i>DISTRICT I Precincts 1 through 11 of Ward 1</i>	
<i>DISTRICT II Precincts 1 through 13 of Ward 4</i>	
<i>DISTRICT III Precincts 1 through 20 of Ward 6</i>	
<i>DISTRICT IV Precincts 1 through 16 of Ward 7</i>	
<i>DISTRICT V Precincts 1 and 3 through 16 of Ward 12</i>	
<i>DISTRICT V Precincts 1 and 3 through 16 of Ward 12</i>	
Whenever Ward boundaries within the City are officially changed, but not later than twenty-one (21) days prior to the opening of filings for city office, the Reapportionment Commission shall propose a plan for changing the boundaries of the six (6) Park and Recreation Districts and notify the Park and Recreation Board of the proposed plan. The Park and Recreation Board shall then review the proposed plan and make recommendations to the Reapportionment Commission. The Reapportionment Commission shall consider any recommendations made by the Park and Recreation Board and shall adopt the Park and Recreation District boundaries no later than fourteen (14) days prior to the opening of filings for city offices. Without dividing any election precinct, the boundary lines prescribed by this section shall be retained as nearly as practicable in readjusting the boundaries of any park and recreation district.	[§ 2.3] (b) Commission. The Redistricting Commission must redistrict the park districts in the same manner as it redistricts the wards, for which purpose the Commission includes two commissioners elected by but not from the Park & Recreation Board’s commissioners, in the same manner as and in place of the commissioners elected by the Council members under section 2.2(c)(2)(A)(i)–(ii), but without regard to political affiliation. If the park districts are redistricted when the wards are not being redistricted, then the Charter Commission must convene a new Commission, with the Park & Recreation Board serving in the City Council’s place. For this section 2.3’s purposes, the “Commission” means the Redistricting Commission for which this section 2.3(b) provides. (c) Park & Recreation Board. Before holding a public hearing on any tentative plan, the Commission must— (1) notify the Park & Recreation Board of its tentative plan; and (2) consider any recommendation by the Board. (d) Schedule. Before filing opens for the first general election after the process begins, the Commission may extend its schedule for redistricting park districts if— (1) at least 14 days before, it notifies the Park & Recreation Board of its tentative plan, and (2) at least seven days before, it files a final plan with the city clerk.
Said Park and Recreation Board shall have a common seal, and shall be capable of entering into, making, performing and enforcing contracts in the name of, and in behalf of the City of Minneapolis, to carry out the purposes expressed in this Chapter. <i>And all contracts so made and entered into shall be signed and executed by the President and Secretary under the direction of the Board.</i>	[§ 7.2(b)] Body corporate and politic. The Board is a body corporate and politic and, in the exercise of its general functions and powers, may— (1) adopt a seal; (2) make contracts;
All persons elected to the office of Park and Recreation Commissioner shall before entering upon the discharge of their duties severally file a written acceptance and oath of office in the office of the City Clerk of the City of Minneapolis.	[§ 9.2(a)] Oath. Before taking office, each officer must sign and file with the city clerk an oath in substantially the following form: “I swear [<i>or ‘affirm’</i>] that I will faithfully discharge the office of [title], and will support the constitutions of the United States and of Minnesota.”
The said Park and Recreation Board shall elect annually from their own number a President <i>and a Vice President,</i>	[§ 5.2(b)] President. Each board at its organizational meeting must elect from its membership a president.
and shall appoint annually a Secretary who shall not be a member of said Board.	[§ 5.2(d)] Secretary, other officers. Each board must elect a secretary

	and may elect or appoint, or provide for the election or appointment of, any other necessary officer. A board's rules may require that its secretary or any other officer must (or must not) come from or serve on the board, otherwise the officer may but need not come from or serve on the board.
And said officers shall hold their respective offices until their successors are elected and qualified.	[§ 5.2(e)] Tenure. Each officer serves until his or her successor takes office.
The said election shall be held on the first business day in January of each year, and whenever vacancies shall occur in said offices, they shall be at once filled in like manner for the unexpired term.	[§ 7.4(a)] Organizational meeting. The Board must annually hold an organizational meeting on the first weekday in January that is not a holiday.
Whenever a vacancy may occur in the office of an elected Commissioner, it shall be filled by the Board.	[§ 7.3(c)] Vacancies. The Board, with at least six affirmative votes, may fill any vacancy in its membership.
<i>The person elected as Secretary, before entering upon the duties of office, shall file with the Comptroller-Treasurer [Finance Officer] of said City a corporate surety bond in such form and in the amount of at least \$35,000 or in such higher amount as may be fixed by the Park and Recreation Board as security for the faithful performance of the official duties of office and the safekeeping of public funds. The premium of such bonds shall be paid from the Park and Recreation Fund. Said Secretary shall have power and is hereby authorized to administer oaths in all proceedings under this chapter and incident thereto.</i>	[§ 7.3(d)] Secretary. The Board elects a secretary who does not serve on the Board. The secretary may administer an oath or affirmation in any proceeding under this article VII.
<i>It shall be the duty of the said Secretary to submit to the said Board at the first meeting in January, a report showing the transactions of the Secretary's office, and other information necessary for the conduct of business.</i>	
The said Park and Recreation Board shall make rules to govern its proceedings, and may meet from time to time, as it may by rule or vote determine, and adjourn its said meetings.	§ 5.3. Meetings (a) Meetings generally. Each board meets as this charter or the board's rules provide. Each such meeting must comply with the Minnesota open meeting law. (d) Rules. Each board may adopt rules of order for the conduct of its own business.
It shall make and publish from time to time, rules, ordinances and regulations for the government of its officers, agents, servants, and employees, and for the government and regulation of the parks and parkways, which may be required under and pursuant to the provisions of this Chapter.	
A majority of the members of said Board shall constitute a quorum;	[§ 5.3(b)] Quorum. Each board's quorum is a simple majority of its membership, disregarding any vacancy. A quorumless meeting may adjourn to a more convenient time, and may take measures to obtain a quorum.
but no action of said Board, designating or purchasing or leasing lands, creating a bonded debt, or filling vacancies in the Park and Recreation Board, shall be valid unless voted for by six (6) members of said Board;	[§ 7.2(f)(1)] Supermajority required for certain actions. The Board may dedicate, buy, lease, or name or rename realty with at least six affirmative votes. [§ 7.5] The Board, with at least six affirmative votes, may borrow [§ 7.3(c)] Vacancies. The Board, with at least six affirmative votes, may fill any vacancy in its membership.
and a record of its proceedings shall be kept,	[§ 5.3(e)] Proceedings. The board's secretary must carefully and

	faithfully record its proceedings, including each act adopted and each member's vote on each such act, which the secretary must promptly file with the city clerk or in the board's office. The clerk or board must keep the board's proceedings on file and available for inspection and copying by any voter during normal business hours at the clerk's or board's office.
<i>and the said Board shall make and publish an annual report setting forth their general proceedings, and containing a statement of the receipts and expenditures of said Board; which statement of receipts and expenditures shall be submitted to the City Comptroller-Treasurer [Finance Officer] to be audited in the same manner as accounts of city officers. The said Commissioners shall receive no compensation for their services, but may receive such sums for actual and necessary expenses incurred in performing their official duties as may be audited and allowed by the said Board.</i>	[§ 7.2(g)] Compensation. The Board may provide for the commissioners' compensation.
The Park and Recreation Board shall be authorized to employ and dismiss, subject to the provisions of the Civil Service Chapter of this Charter, such attorneys, surveyors, agents and employees as may be necessary, and to fix the compensation of all its appointees and employees, which shall be payable from the fund hereinafter established for the purpose of this Chapter, upon the order of said Board, <i>countersigned by the City Comptroller-Treasurer [Finance Officer].</i>	[§ 7.2(h)(1)] Employment and compensation. The Board may provide for any necessary employees and for their compensation.
<i>No Commissioner shall be interested in any contract made under the authority of said Board, or in any lands to be acquired by said Board, except that any Commissioner who shall be owner of, or interested in, any lands which may be designated or appropriated for the uses of this Chapter shall be entitled to receive compensation therefor as provided herein, but shall not act officially in respect to any matter in which such person may be pecuniarily interested.</i>	
Any Commissioner may be removed from office by the District Court of Hennepin County, after trial and conviction, upon the petition with sworn charges presented by not less than ten (10) reputable freeholders of said city, if it shall appear at the trial that such Commissioner has been guilty of misdemeanor, or malfeasance in office.	[§ 7.3(b)(1)] Petition. On a petition sworn by at least 10 citizens, the district court, after notice and hearing, may remove any commissioner for malfeasance or misdemeanor in office.
<i>Upon the presentation of such petition to one of the Judges of said Court the Judge shall issue an order returnable before such Judge, or the Court, requiring such Commissioner to appear and show cause why the removal from office should not take place and upon the return of such order the Court or Judge shall direct the method of hearing and procedure.</i>	
The office of any Commissioner under this Chapter who shall not attend meetings of the Board for three (3) successive months after having been duly notified of said meetings, without reasons satisfactory to the Board, or without leave of absence, from said Board, may by said Board be declared and thereupon shall become vacant.	[§ 7.3(b)(2)] Nonattendance. The Board may remove any commissioner absent from its meetings for 90 days.
§ 2. Parks and Parkways	
The Park and Recreation Board of the City of Minneapolis and its successors shall have the power and it shall be its duty to devise, adopt and maintain parks and parkways in and adjacent to the City of Minneapolis, and from time to time to add thereto; to designate lands and grounds to be used and appropriated for such purpose; to cause the same to be platted, surveyed, and plats thereof filed in the office of the Secretary of	[§ 7.1] Through the Park & Recreation Board, the City provides for parks, parkways, and recreational opportunities for its current and future citizens' use.

<p>said Board, and in the office of the City Engineer of the City of Minneapolis; and the right to take possession upon obtaining title to the same or any part thereof, to hold, improve, govern and administer the same for such purposes.</p>	
<p>The said Park and Recreation Board, and their successors, shall have power, and it is hereby authorized, to obtain title for and in the name of the City of Minneapolis, to any lands so designated by it for the purpose of this Chapter, by gift, devise, purchase or lease.</p>	<p>[§ 7.2(b)] The Board is a body corporate and politic and, in the exercise of its general functions and powers, may— . . . (3) buy and sell property; (4) accept and administer, invest, or otherwise dispose of gifts;</p>
<p>And said Board may enter into any contract in the name of said city, for the purchase of any lands to be paid for in such time, or times, and in such manner as the Board may agree to; and said Board may accept title to lands and give back a mortgage or mortgages in the name of said city, with or without bonds to secure the unpaid purchase price. Provided, that no personal or general liability on the part of said city shall be created by any such contract, or mortgage, or bond beyond the means at the time available therefor, except the liability to pay such amount as may be realized from benefits assessed on benefited property on account of the lands included in such contract or mortgage.</p>	<p>[§ 7.2(f)(3)] Mortgages. The Board may issue or give back a mortgage, with or without bonds securing the unpaid purchase price, that evidences its indebtedness for any such realty.</p>
<p>And it is hereby made the duty of said Board to pay on each such contract or mortgage an amount equal to the sum or sums so realized from such assessments; and said Board shall have power to accept and receive donations of money, property or lands, for the use of the said city for the purposes contemplated in this Chapter.</p>	<p>[§ 7.2(b)(4)] accept and administer, invest, or otherwise dispose of gifts;</p>
<p>§ 3. Authority to Condemn Land—Appraisers</p>	
<p>The Park and Recreation Board shall have power, and it is hereby authorized to condemn for the use of said city, any tract or tracts, parcel or parcels of land, or any interest therein, which it may have designated as hereinbefore provided in the second (2) section of this Chapter; and when such condemnation shall have been completed and the land paid for as herein provided, the title to such land shall pass, and be vested in fee simple in the said city. <i>For the purpose of making and perfecting such condemnation, the said Park and Recreation Board shall proceed in the manner following:</i></p>	<p>[§ 7.2(a)(2)] When exercising its powers under this article, the Board may act on the City's behalf and enjoys all the City's lawful powers, including (but not limited to)— (A) eminent domain;</p>
<p><i>1st. The Park and Recreation Board shall appoint five (5) appraisers who shall be disinterested freeholders and qualified voters of said city, and none of whom shall be residents of the ward or wards in which the property so designated is situated, to view the premises and appraise the damages which may be occasioned by the taking of private property or otherwise in making said improvements; said appraisers shall be notified as soon as practicable by the Secretary of said Board at a time to be fixed by the Secretary for the purpose of qualifying and entering upon their duties; and in case any such appraiser, upon being so notified, shall neglect or refuse to attend as aforesaid, said appraiser shall forfeit and pay a fine to said city, not exceeding fifty dollars (\$50.00) and shall be liable to be prosecuted therefor before the Municipal Court of Hennepin County, as in case of a violation of an ordinance of said city. Whenever a vacancy may occur among said appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the Park and Recreation Board.</i></p>	
<p><i>2nd. The appraisers shall be sworn to discharge their duty as</i></p>	

<p><i>appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the Park and Recreation Board.</i></p>	
<p><i>3rd. The said appraisers shall with all reasonable speed give notice by publication in the official newspaper of said city once a week for two (2) consecutive weeks; which last publication shall be at least ten (10) days before the day of such meeting; which notice shall contain a general description of the lands designated by the Park and Recreation Board, and give notice that a plat of the same has been filed, and the said appraisers will meet at a place and time designated in said notices and thence proceed to view the premises and appraise the damages for property to be taken, or which may be damaged by such improvement.</i></p>	
<p><i>4th. At the time and place according to said notice, the said appraisers shall view the premises and may hear any evidence or proof offered by the parties interested, and adjourn from time to time for the purpose aforesaid. When their view and hearing shall be concluded, they shall determine and appraise the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by such improvement.</i></p>	
<p><i>5th. If there should be any building standing, in whole or in part, upon any parcel of the land to be taken, the said appraisers shall in each case determine the amount of damages which should be paid to the owner or owners thereof in case such building, or so much thereof as may be necessary, should be taken, and shall also appraise and determine the amount of damages to be paid such owner or owners, in case said owner or owners should elect to remove such building.</i></p>	
<p><i>6th. If the lands and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate in it less than an estate in fee, the injury or damage done to such persons or interests respectively may be awarded to them by the appraisers. Provided, that neither such award of the appraisers nor the conformation [confirmation] thereof by the Park and Recreation Board shall be deemed to require payment of such damages to the person or persons named in said award, in case it shall transpire that such person or persons are not entitled to receive the same.</i></p>	
<p><i>7th. The said appraisers having ascertained and appraised the damage aforesaid, shall make and file with the Secretary of said Park and Recreation Board a written report of said Park and Recreation Board of their action in the premises, embracing a schedule and appraisal of the damages in each case with a description of the lands and names of the owners, if known to them, and also a statement of the costs of the proceedings.</i></p>	
<p><i>8th. Upon such report being filed, the Secretary of the Park and Recreation Board shall give notice that such appraisal has been returned, and that the same will be considered by the Park and Recreation Board at a meeting thereof to be named in the notice; which notice shall be published in the official newspaper of said city once a week for two (2) successive weeks; and the last publication shall be at least ten (10) days before such meeting.</i></p>	
<p><i>Any person interested in any building, standing in whole or in part upon any land required to be taken by such improvement who elects to remove such building, shall on or before the time</i></p>	

<p><i>specified for said meeting, in such notice, notify the said Park and Recreation Board in writing of said person's election to remove such buildings.</i></p>	
<p><i>The Park and Recreation Board, upon the day fixed for the consideration of such report, or at such subsequent meeting to which the same may stand over to be referred, shall have power in their discretion to confirm, revise or annul the appraisalment, in whole or in part; giving due consideration to any objections interposed by parties interested in manner hereinafter specified, provided, that said Board shall not have the power to reduce the amount of any award.</i></p>	
<p><i>In case the appraisalment is annulled, in whole or in part, the Board may thereupon appoint new appraisers, who shall proceed in like manner, as in case of the first appraisalment, as to any lands as to which the former appraisalment was annulled; and upon the coming in of their report the Board shall proceed in like manner and with the same powers as in case of the first appraisalment, and may order reappraisalment so often as it shall deem proper.</i></p>	
<p><i>9th. The damages shall be paid out of the parks and recreation fund, and shall be so paid, or be deposited and set apart in the treasury of said city to and for the use of the parties entitled thereto, within six (6) months after the confirmation of such appraisalment and report; but in case any appeal or appeals shall be taken from the order confirming said appraisalment, then the amount of such damage shall not in any case be required to be paid or deposited and set apart as aforesaid, until sixty (60) days after the determination of all appeals which shall have been so taken.</i></p>	
<p><i>And in case of any re-appraisalment or re-appraisalments, the amount of such damage shall not in any case be required to be paid or deposited or set apart, as aforesaid, until sixty (60) days after final action and determination, including determination, upon appeals of such re-appraisalments, it being the intention that said Board shall be enabled to ascertain the entire cost of any improvement before paying for any part of such improvement.</i></p>	
<p><i>The land and property required to be taken for the purposes aforesaid shall not be appropriated until the damages awarded therefor to the owner thereof shall have been paid to such owner or the owner's agent, or deposited and set apart for the owner's use as aforesaid. And in case the said Park and Recreation Board shall be unable to determine to whom damages so awarded should in any particular case be paid, or in case of disputed claims in relation thereto, or in case of the legal disability of any person interested, the amount of damage in any such case may be deposited by order of the Park and Recreation Board in the District Court of Hennepin County, in the same manner as moneys are paid into court as provided by law, and in every case such deposit of the money in court shall satisfy all requirements of this act; and said court upon the proper application of any person claiming the award or any part thereof, shall determine to whom the same shall be paid.</i></p>	
<p><i>10th. In case any owner or owners of buildings as aforesaid shall have elected in manner aforesaid to remove said buildings, they shall so remove them within thirty (30) days from the confirmation of said report, or within such further time as the Park and Recreation Board may allow for the purpose,</i></p>	

<p><i>and shall thenceforth be entitled to payment from said parks and recreation fund of the amount of damages awarded in such case in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected) to remove the same within the time prescribed, such buildings or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking, in manner aforesaid, may be taken and appropriated, sold or disposed of as the said Park and Recreation Board shall direct, and the same or the proceeds thereof shall belong to the said parks and recreation fund.</i></p>	
<p><i>11th. Any person whose property is proposed to be taken or interfered with, under any provisions of this Chapter, and who deems that there is any irregularity in the proceedings of the said Park and Recreation Board, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded for taking of or interference with such person's property, may at any time before the time specified for the consideration of the award by the Park and Recreation Board, file with the Secretary of said Board, in writing, the objections to such confirmation setting forth therein specifically the particular irregularities complained of, and containing a description of the property affected by such proceedings, and said person's interest therein, and if, notwithstanding such objections, the said Board shall confirm the award, such person so objecting shall have the right to appeal from such order of confirmation of the Board to the District Court of the County of Hennepin, within ten (10) days after such order; such appeal shall be made by serving a written notice of such appeal upon the Secretary of said Board, which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid, and by also delivering to said Secretary a bond to the City of Minneapolis, executed by the appellant, or by some person on behalf of the appellant, with two (2) sureties who shall justify in the penal sum of fifty dollars (\$50), conditioned to pay all costs that may be awarded against the appellant. Thereupon the said Secretary shall make out and transmit to the Clerk of the said District Court a copy of the award of said Commissioners as confirmed by the Board and of the order of the Board confirming the same, and of the objection filed by the appellant as aforesaid, all certified by said Secretary to be true copies, within ten (10) days after the taking of such appeal. But if more than one appeal be taken from any award, it shall not be necessary that the Secretary, in appeal subsequent to the first, shall send up anything except a certified copy of the appellant's objection. There shall be no pleading on such appeal, but the court shall determine in the first instance whether there was in the proceeding any such irregularity or omission of duty prejudicial to the appellant and specified in said written objection that as to the appellant the award or appraisal or (of) the appraisers ought not to stand, and whether said appraisers had jurisdiction to take action in the premises. The case may be brought on for hearing on eight (8) days' notice, at any general or special term of the court, and shall have precedence of other civil cases, and the judgment of the court shall be either to confirm or annul the proceedings, only so far as the said proceedings affect the</i></p>	

<p><i>property of the appellant proposed to be taken or damaged, and described in said written objection. In case the amount of damages awarded is complained of by such appellant, the court shall, if the proceedings shall be confirmed in other respects, upon such confirmation, appoint three (3) disinterested freeholders, residents of said city, appraisers, to re-appraise such damages. The parties to such appeal shall be heard by said court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of such appraisers; they shall be sworn to the faithful discharge of their duties of such appraisers; and shall proceed to view the premises and to hear the parties interested with their allegations and proofs pertinent to the question of the amount of such damages; such appraisers shall be governed by the same provisions in respect to the method of arriving at the amount of damages, and in all other material respects as are in , and in all other material respects as are in this Chapter made for the government of appraisers appointed by said Board. They shall, after such hearing and view of the premises, make a report to said court of their appraisal of damages in respect to the property of such appellant. The award of such appraisers shall be final, unless set aside by the court for good cause shown. In case such report is set aside the court may in its discretion recommit the same to the same appraisers or appoint new appraisers, as it shall deem best; said court shall allow a reasonable compensation for their services, and make such award of costs on such appeal, including the compensation of such appraisers, as it shall deem just in the premises. In case the court shall be of opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. The Park and Recreation Board shall have the right at any time during the pendency of any proceedings for the acquisition of lands for any improvement authorized by this Chapter, or at any time within sixty (60) days after the final order by the court, of all appeals taken in such proceedings to abandon all such proceedings in respect to the whole improvement or any part thereof, whenever they shall deem it for the best interest of the city so to do.</i></p>	
<p><i>12th. As soon as said proceedings for acquiring the title to such lands shall have been completed, it shall be the duty of said Commissioners to make, or cause to be made, an accurate description of all such lands as shall have been so acquired, with a statement of the amount of damages awarded and paid to each former owner for the land so acquired, which shall be certified by the President and Secretary of said Board, under the official seal of said Board, and be filed in the office of the Secretary of the Park and Recreation Board, and for record in the office of the Register of Deeds of said County of Hennepin; and it is hereby made the duty of said Register of Deeds to record the same among the records of transfers of real estate in said county, which records shall be prima facie evidence of title to such land, and of the transfer of all the interests of such former owner in the same to said City of Minneapolis.</i></p>	
<p><i>It shall also be the duty of said Park and Recreation Board to have correct plats of all such lands as they may acquire for the purposes of this Chapter, prepared and filed in the office of the Secretary of said Park and Recreation Board, in the office of the City Engineer of the City of Minneapolis, and in the office of the Register of Deeds of Hennepin County; which said plat</i></p>	

<p><i>shall be kept on file and of record in the office of said Register of Deeds in like manner as plats of additions to the City of Minneapolis.</i></p>	
<p>§ 4. Assessment of Benefits—Appointment of Park Assessors</p>	
<p><i>As soon as the amount required for the purchase and condemnation of the land selected for any park or parkway, or park purposes, shall have been ascertained by said Park and Recreation Board with reasonable certainty, it shall determine what percentage, if any, of the amount so ascertained shall be assessed upon the lands benefited by said park or parkway, and it shall apply to the District Court of Hennepin County for the appointment of three (3) freeholders of the City of Minneapolis, as park assessors, none of whom shall be residents of the ward or wards in which the property so designated is situated.</i></p>	
<p><i>Notice of such application shall be given by publication thereof in the official newspaper of said city at least six (6) days successively, the last of which publication shall be at least three (3) days prior to the date fixed therefor, and all persons interested may appear and be heard by the court touching such appointment. After such hearing the court shall appoint three (3) disinterested assessors who shall proceed to assess upon such lots, blocks, tracts and parcels of land in the City of Minneapolis as they shall deem to be specially benefited by such park or parkway, whether such land shall adjoin and abut upon such park or parkway or not, and whether exempted from assessment or not, such sum as they shall deem a just proportion respectively of the total sum to be assessed for benefits; and the determination of said assessors as to what lots, blocks and parcels of land especially are specially benefited shall be deemed to include all the lands so benefited. In case of the purchase of lands for any such park or parkways, or of any part thereof, it shall be competent for said Park and Recreation Board to agree with the vendor or vendors of the land so purchased upon a price therefor, which may in addition to the purchase price thereof include exemption from an assessment for benefits upon any remaining contiguous or adjacent lands owned by such vendor or vendors, the amount of which exemption shall be specifically agreed upon in the contract or conveyance; provided in all such cases an accurate description shall be furnished to said Board by the party to be exempted, specifying the lands so to be exempted, which description shall be filed in the office of the Secretary of said Board and a certified copy thereof shall be recorded in the office of the Register of Deeds of Hennepin County; and it shall be the duty of said Register of Deeds to file and record the same. Before proceeding to act under such appointment the said assessors shall make oath faithfully and impartially to discharge the duties of their said office, and shall then give notice of the time and place of their meeting, for the purpose of making said assessment, by publication thereof for six (6) successive days in the official newspaper of said city the last of which publication shall be at least three (3) days before the time of meeting; all parties interested may appear before said assessors and be heard touching any matter connected with the assessment.</i></p>	
<p><i>The assessors shall have power to administer oaths to witnesses and shall hear and consider any pertinent testimony offered and they may adjourn their meetings from time to time until the</i></p>	

<p><i>assessment is completed. When completed the assessment shall be signed by the assessors or by a majority who shall concur therein; and shall be returned to and filed in the office of the clerk of said District Court.</i></p>	
<p><i>The Park and Recreation Board shall cause to be published in the official newspaper of the City of Minneapolis at least six (6) days successively, a notice of the filing of said assessment roll; which notice shall set forth the boundaries of the district in which said assessments have been levied; and they will on a day named therein apply to said court for the confirmation of said assessment, the last of which publications shall be at least five (5) days prior to said application.</i></p>	
<p><i>Said District Court shall have power to revise, correct, amend and confirm said assessment in whole or in part, and may make or order a new assessment in whole or in part, and the same revise, correct, amend and confirm upon like notice. All parties interested may appear before said court at the time of such application, and object to said assessment either in whole or in part, but all objections shall be in writing specifying the tracts or parcels of land in respect to which objection is made, and shall be filed with the clerk of said district court at least two (2) days before the time fixed for the application. Objections which relate merely to the amount assessed upon the premises specified shall not be available, unless the court shall be satisfied that the assessors in fixing such amount were governed by improper motives, or proceeded upon erroneous principles, or under an obvious mistake of facts. After the confirmation of such report, the Park and Recreation Board shall cause a copy thereof, as amended and confirmed, to be filed in the office of the Auditor of Hennepin County, and the copies of such assessment rolls as have heretofore been filed in the office of the clerk of said court, shall be transferred to and filed in the office of said County Auditor. Such assessment shall be a lien upon the several tracts or parcels of land so assessed for benefits, as aforesaid, and ten (10) per cent of the amount thereof shall be due and payable annually.</i></p>	
<p><i>The Auditor of said Hennepin County shall include in the general tax list for the collection of state, county and city taxes, ten (10) per cent of said assessment for each year, until the whole sum is paid, setting opposite the several tracts or parcels of land assessed the amount of such assessment in an appropriate column to be headed "park assessments" and like proceedings in all respects, shall be had for enforcing the collection of the same as is now provided by law for the collection of state, county and city taxes. In case any of the tracts or parcels of land which have been or which may hereafter be assessed for benefits, as aforesaid, have been or shall hereafter be replatted or otherwise subdivided, said County Auditor shall have power to apportion the amount originally assessed therein among the several lots, blocks or parcels into which the same has or shall be so subdivided, in such manner that the several subdivisions thereof shall bear their just proportion of the benefit tax as so assessed or confirmed. Said County Auditor shall provide, and keep, as one of the records of the County Auditor's office, a suitable book or books, in which the County Auditor shall enter the several tracts and parcels of land so assessed, with a statement of the amounts assessed thereon respectively, and all payments made</i></p>	

<p><i>on account of such assessments, with such other facts in relation thereto as said Auditor may deem advisable; and the Park and Recreation Board may compensate said Auditor for such services in any sum which said Board shall deem just and reasonable.</i></p>	
<p>§ 5. Issuance of Bonds For the cost of acquiring a title to lands for said parks and parkways, the said Park and Recreation Board shall have power to borrow, from time to time, for such times as it shall think expedient, not exceeding fifty (50) years, a sum of money the annual interest upon which for all the moneys so borrowed including the sums heretofore borrowed shall not exceed thirty-five thousand dollars (\$35,000.00), and for that purpose shall have authority to issue bonds of the City of Minneapolis, to be denominated “park bonds,” secured upon said parks and the improvements thereon; <i>which bonds shall issue under the seal of said Park and Recreation Board, and shall be signed by the President and Secretary of said Board, and countersigned by the Comptroller- Treasurer [Finance Officer] of the City of Minneapolis, and shall bear interest not exceeding four and a half (4 1/2) per cent per annum. And in no case shall bonds be issued by said Commissioners so that the bonded debt of the city shall exceed the limit fixed by law. It shall be the duty of the Secretary of said Park and Recreation Board and of the City Comptroller-Treasurer [Finance Officer] to keep an accurate register of all bonds issued, showing the amount, number and date of each bond.</i> And for the payment of the principal and interest of said bonds, and said parks and improvements thereon shall be irrevocably pledged with a first lien thereon, and the city of Minneapolis shall be irrevocably bound; provided, that all lands shall be first subject to the unpaid purchase price thereof; and said bonds may be sold by said Park and Recreation Board, upon such terms and for such prices as in its judgment are the best that can be obtained for the same.</p>	<p>[§ 7.5] The Board, with at least six affirmative votes, may borrow an amount on which the annual interest does not exceed \$50,000, for up to 50 years, with the debt secured by the parks and parkways.</p>
<p>§ 6. Tax Levy—Park and Recreation Fund</p>	
<p>The said Park and Recreation Board shall annually, on or before the tenth (10th) day of October in each year, transmit to the Auditor of Hennepin County an estimate in writing of the amount of money necessary for the payment of interest on bonds issued by said Board, and that will be required for the acquiring, equipping, improving, maintaining, operating and governing parks, parkways, playgrounds and other recreational facilities and conducting recreational programs for the public use during the succeeding year; which amount shall not exceed what will be raised by a tax of six (6) mills upon each dollar of valuation of the taxable property in said City, nor shall such tax in any year exceed the maximum fixed therefor by the Board of Estimate & Taxation; <i>and the said Auditor shall proceed to determine what per cent said sum is on the taxable property of said City according to the assessor’s returns, and shall, in the next general tax list for the collection of City, State and County taxes, in said City, set down the amount chargeable to the several persons, corporations, lots or parcels of ground in a separate or appropriate column, and the proper officers shall proceed to collect the same in a manner now provided by law for the collection of City, State and County taxes, and all the provisions of law in respect to the collection of City, State and County taxes, and proceedings to enforce the same as far as</i></p>	<p>[§ 7.6(a)] Park & recreation fund. The Board may annually tax up to 0.10415 percent of the total value of the property in the City.</p>

<p><i>applicable, shall apply to said assessments and taxes; the said sum of money, together with all other moneys provided for the purposes aforesaid, shall be placed by the City Comptroller-Treasurer [Finance Officer] of the City of Minneapolis to the credit of said Park and Recreation Board, and shall be drawn by said Board from the City Treasury by warrant signed by the President and Secretary of the Board, countersigned by the City Comptroller-Treasurer [Finance Officer] and in no other way; and shall constitute a special fund to be known and denominated the "Park and Recreation Fund."</i></p>	
<p>The said Park and Recreation Board in addition to all other power and authority, is hereby authorized and empowered, and it shall be its duty to levy annually upon all the property, real and personal, a tax not exceeding 1/20 of a mill upon each dollar of the assessed valuation of this City, for the purpose of protecting, caring for, replacing and maintaining the shade and ornamental trees and shrubbery in the streets and avenues of the City. Provided, however, that grants and real estate mentioned shall be subject only to the levy and collection of taxes now or hereafter provided by law, and provided, further, that the rate of such levy shall not exceed the maximum fixed by the Board of Estimate & Taxation in any year. <i>All taxes so levied shall be certified to the County Auditor of this county on or before the 10th day of October of each year and shall be collected with, and the payment therefor enforced in the same manner as such general tax and with like penalties and interest. The tax collected for the protection and preservation of trees and shrubbery shall be paid to the City Comptroller-Treasurer [Finance Officer] and placed in a fund to be known as "Street Forestry Fund," and all moneys collected and paid to the credit of such fund shall be paid by warrant of the Park and Recreation Board and signed by the President and Secretary of such Board and countersigned by the City Comptroller-Treasurer [Finance Officer].</i></p>	<p>[§ 7.6(b)] Tree fund. The Board may annually tax up to 0.02753 percent of the total value of the property in the City for taking care of shade and ornamental trees and shrubbery.</p>
<p>§ 7. Board Authorized to Accept Gifts, Etc.</p>	
<p>The Park and Recreation Board is authorized to receive and accept in the name of the city, any gift or devise of land or buildings to be used for a public park, museum, gallery, or school of arts or crafts, or for the construction, equipment, improvement, maintenance or use thereof, or for any one or more of such purposes, with the right reserved by the donor or devisor to the free and exclusive occupancy, management, control and use of any such building by any incorporated society of this state organized for the general purposes of fostering and promoting educational, artistic and scientific interests, or some one or more of them, and not for any purposes of pecuniary gain or profit to any of its members, and upon such other conditions, but subject to such regulations and restrictions, as shall be approved by such Park and Recreation Board.</p> <p>The Board may likewise accept gifts and bequests of money and other personal property to be used for any of the purposes aforesaid.</p>	<p>[§ 7.2(d)] Park museum. The Board has accepted a gift of property for the benefit of a park, museum, gallery, or school of arts and crafts, which a donor-designated nonprofit organization administers according to the terms under which the gift was accepted.</p>
<p>Such Board, out of any money received for the Park Museum Fund, as hereinafter provided, or from any gift or bequest applicable thereto, shall care for and maintain as a public park,</p>	

<p>any land or grounds acquired and used as aforesaid, and shall maintain and keep in repair, alter, enlarge, improve and equip, heat, light and care for, any and all such buildings, shall maintain proper insurance thereon, and shall make suitable provision for the custody of, and for keeping, preserving and exhibiting any and all collections, objects and specimens contained therein. In case of the destruction or damage of any such building from any cause, the proceeds from any insurance thereon, together with any funds available therefor received under the provisions of this act, shall be used for the restoration of such building, such board shall have power to make any contracts or arrangements, in the name of the city, necessary or convenient to promote the general purposes of this Chapter, and shall have power to make rules and regulations for the use and government of such land and buildings, and, for that purpose, may adopt rules and ordinances, and provide penalties for their violation.</p>	
<p>After the acquirement of any such museum, gallery, or school of arts or crafts as aforesaid, there shall be annually levied and it shall be the duty of such Park and Recreation Board to cause to be included in the annual tax levy, upon all the taxable property of the city, a tax of one-eighth (1/8) of one mill upon each dollar of the assessed valuation of property in this city subject to taxation, and such board shall certify such levy to the Auditor of the County of Hennepin, and the same shall be added to, and collected with and as part of the general real and personal property taxes with like penalties and interests, in case of nonpayment and default, and all provisions of law in respect to the levy, collection and enforcement of other taxes shall, so far as applicable, be followed in respect to such taxes. All of said taxes, penalties and interest, when collected, shall be paid to the City Comptroller-Treasurer [Finance Officer], and shall be credited to a fund to be known and denominated as the "Park Museum Fund," and shall be used for the purposes specified in this Section 7, and for no other purpose. Any part of the proceeds of such levy not expended for the purposes specified in this paragraph may be used for the erection of new buildings for the same purposes. The Park and Recreation Board may, by ordinance, provide for the payment of all current bills incurred by it, or under its authority, for goods, wares and merchandise, without awaiting the formal vote of such Board directing payment thereof.</p>	<p>[§ 7.2(d)] The Board must annually levy a tax, up to 0.0125 percent of the total value of the property in the City, whose proceeds go to a fund that pays for the park, museum, gallery, or school, and may not be diverted for any other purpose.</p>
<p>§ 8. Vacation and Closing of Streets It shall be lawful for said Park and Recreation Board to vacate and close up any and all public roads and highways excepting railroads which may pass through, divide or separate any lands selected or appropriated by it for the purpose of parks, and no such road, highway nor any railroad shall be laid out through said parks or any of them, except such as the said Park and Recreation Board shall itself lay out and construct or shall consent to.</p> <p>§ 9. Construction of Bridges and Viaducts The said Board shall have power to construct all necessary bridges and viaducts over water courses and railroads within or on the line of said parks and parkways.</p>	<p>§ 8. Vacation and Closing of Streets It shall be lawful for said Park and Recreation Board to vacate and close up any and all public roads and highways excepting railroads which may pass through, divide or separate any lands selected or appropriated by it for the purpose of parks, and no such road, highway nor any railroad shall be laid out through said parks or any of them, except such as the said Park and Recreation Board shall itself lay out and construct or shall consent to.</p>
<p>§ 10. Expenditures of Money Received for Benefits <i>The fund which may be received for and upon the special</i></p>	

<p><i>assessments of benefits herein provided for shall be paid into the City Treasury as a part of the parks and recreation fund.</i></p>	
<p>§ 10. Shore Rights Whenever the title shall have been acquired for the purpose of this Chapter, to the land constituting the shore or shores of any stream of water, lake or pond, said Board may regulate and control the use of such shore or shores and the water contiguous thereto, and in case such ownership shall embrace the entire shore or any such lake or pond, said Board is hereby empowered to take any and have exclusive charge and control of the waters of said lake, and may in all things regulate and govern the use of such waters and may prescribe penalties for the violation of such rules and ordinances as it may adopt for that purpose; provided, that said Board shall not prohibit the use of sail or row boats on such waters.</p>	<p>[§ 7.2(a)(2)(C)] power over the shores and waterways adjacent to any waterway or other body of water that it owns or governs, including exclusive power over any waterway or other body of water whose shore it owns.</p> <p>[§ 7.2(c)] Ordinances. The Board may enact any necessary or prudent ordinance within this article VII's purposes. An ordinance may provide for a fine, imprisonment, other penalty, or any combination of such penalties for its violation. The city attorney prosecutes any such violation. Any resulting fine or other monetary penalty goes to the park & recreation fund.</p>
<p>§ 12. Lands Acquired Subject to Lien for Bonds Issued The lands which may be designated and obtained under the provision of this Chapter shall remain forever for parks and parkways for the use of all the inhabitants of the said City,</p>	<p>[§ 7.1] Through the Park & Recreation Board, the City provides for parks, parkways, and recreational opportunities for its current and future citizens' use.</p>
<p>subject to such rules and regulations as the Park and Recreation Board shall prescribe,</p>	<p>[§ 7.2(c)] Ordinances. The Board may enact any necessary or prudent ordinance within this article VII's purposes. An ordinance may provide for a fine, imprisonment, other penalty, or any combination of such penalties for its violation. The city attorney prosecutes any such violation. Any resulting fine or other monetary penalty goes to the park & recreation fund.</p>
<p>said parks being subject to the lien of the bonds which may be issued for their purchase, <i>provided that land purchased shall be first subject to the unpaid purchase price; which lien, in case of nonpayment of said bonds at the maturity thereof, may be enforced by sales pursuant to any decree of a court of competent jurisdiction.</i></p>	<p>[§ 7.5] with the debt secured by the parks and parkways</p>
<p>§ 13. Sale of Lands Available for Park Purposes Whenever the title to any piece or parcel of real estate that has been or may hereafter be, acquired under the provisions of this Chapter, either by purchase or condemnation and the proceedings for the establishment of a particular park or parkways, of which said piece of land, or parcel of land, was designated to form a part has been, or may hereafter be, abandoned by said Board, as by this Chapter authorized, in consequence of which abandonment said piece of parcel of land has or may become unavailable as a part of said park system, such lands may be sold and conveyed by deed executed in the name of said City by the President and Secretary of said Board, at such price and upon such term as said Board may direct or approve. No such sale shall be valid, however, unless authorized by the District Court of Hennepin County by its order describing the premises to be sold and entered upon the petition of such Board, after hearing of all interested parties upon such notice by publication or otherwise, as such court may prescribe. And such District Court is hereby empowered to make and enforce all such orders, judgments and decrees as it may deem proper in the premises and such conveyances so authorized and executed shall vest in the guarantee all right, title and interest of the City of Minneapolis in such lands acquired by such condemnation or purchase.</p>	<p>[§ 7.2(f)(4)] Selling realty. The Board may sell realty only if it has abandoned the realty, and the district court approves the sale.</p>
<p>§ 14. Rules and Penalties</p>	
<p>Said Board shall have power to regulate the use of parks and</p>	<p>[§ 7.2(c)]</p>

<p>parkways acquired in the name of the City, whether within or without the corporate boundaries, and may adopt ordinances to acquire and secure the quiet, orderly and suitable use and enjoyment of such parks and parkways by the people, and fix and ordain penalties for the violation thereof, <i>which ordinances shall take effect from and after the publication thereof in the official newspaper of the City.</i> The penalty for such violation may include fines not exceeding \$300 or confinement not exceeding 90 days, or both, and the same shall be enforced by prosecution, as in the case of other ordinances of said City.</p> <p>The City Attorney shall have charge of all prosecutions, and shall prosecute all violations of park ordinances. All fines and penalties imposed for the violation of park ordinances shall, when received by the City Comptroller-Treasurer [Finance Officer], become a part of the Park and Recreation Fund of the City.</p>	<p>Ordinances. The Board may enact any necessary or prudent ordinance within this article VII's purposes. An ordinance may provide for a fine, imprisonment, other penalty, or any combination of such penalties for its violation. The city attorney prosecutes any such violation. Any resulting fine or other monetary penalty goes to the park & recreation fund.</p>
<p>The Mayor of the City of Minneapolis shall, upon request of the Park and Recreation Board, and subject to the provisions of the Civil Service Chapter of this Charter, appoint as police officers such persons as such Board may request; and which police officers shall be under the control and direction of said Board, and may be discharged by said Board subject to the provisions of said Civil Service Chapter, and said Board shall provide for the payment of such police officers out of the park funds.</p> <p><i>All police officers so appointed shall possess all the common law and statutory power of constables; and any warrant for search or arrest issued by any magistrate or court of record in Hennepin County may be executed in any part of said county by any member of said police force.</i></p>	<p>[§ 7.2(e)] Park police. The Mayor must appoint as many police officers for the parks and parkways as the Board requests. The Board must pay for such police out of the park & recreation fund, may regulate and direct them, and may discipline or discharge them (subject to the Civil Service Commission's rules).</p>
<p>§ 15. Opening, Improving and Vacation of Streets</p>	
<p>The said Park and Recreation Board shall have and exercise all such powers and jurisdiction over and in relation to parkways as now is, or hereafter may be, conferred upon the City Council in respect to the laying out, opening, widening and improving, vacating and discontinuance of streets; the grading, paving and curbing thereof; the construction of sidewalks; and the cost of all lands acquired, and of all improvements made by said Board pursuant to this section shall be levied upon and collected from the property specially benefited thereby. <i>And the proceedings for the condemnation of land and for assessing benefits for improvements shall be conducted in the manner hereinbefore in this Chapter provided for condemning lands and assessing benefits.</i></p>	<p>[§ 7.2(a)(2)(B)] power over public ways that pass through, over, or adjacent to property that it owns or governs, including the power to open, improve, or vacate a public way;</p>
<p><i>The City Council of said City of Minneapolis shall have the same power and jurisdiction in respect to laying water mains and sewers along parkways in the said City as it now has in respect to laying the same along the public streets; and the same proceedings for levying and collecting special assessments for water mains and sewers along such streets shall apply to levying and collecting the same for water main laid along the parkways.</i></p>	
<p><i>The Park and Recreation Board is hereby authorized in its discretion to cause curb and gutter or either to be built along any side of any parkway or any portion thereof, and to cause to be constructed and built any sidewalk along any parkway or any portion thereof, such curb, gutter and sidewalk to be built</i></p>	<p>[§ 7.2(f)(2)] Acquiring realty. The Board may acquire realty— . . . (B) by assessing the benefited property, in which case the Board must identify the property benefited and determine the</p>

<p><i>in such manner and of such materials as it may direct, and to collect the expense and the cost of the same by special assessment upon the property fronting upon such improvements on the same side of the street; but the expense of so improving any part of such parkways as shall be in front of property exempt from such assessment, or property belonging to the City shall be paid from the general fund of said Board.</i></p>	<p>appropriate assessment.</p>
<p><i>It is hereby made the duty of all owners of land adjoining or abutting upon any parkway of the City to construct, reconstruct and maintain in good repair sidewalks along the side of the parkway contiguous to the lands of such owner, whether such sidewalks were heretofore or shall here after be constructed, the same to be built of such material and width and upon such place or grade as the said Board may prescribe by ordinance or otherwise. Whenever said Board shall deem it necessary that any sidewalk shall be constructed or reconstructed along a parkway in said City, it shall by resolution direct such construction or reconstruction specifying the width thereof and the material of which the same is to be constructed. The publication of such resolution once in the official paper of the City shall be sufficient notice to the owners of the land along which such sidewalk is to be built, to construct the same, and unless such owner shall each on his respective land, construct and fully complete such sidewalk within two weeks after the publication of such resolution as aforesaid, the said Board shall forthwith proceed to ascertain the expense of constructing the same and assess and levy such expense upon and against each lot and parcel of land upon which said sidewalks shall front. Such assessment shall be made and collected in the same way so far as may be, except as herein otherwise provided for the collection of special assessments made by the City Council for the construction of sidewalks upon streets and alleys under its control, and the duties to be performed by the City, the City Engineer and the City Clerk respectively, shall appertain to and be performed by the said Board, its Engineer and Superintendent, and its Secretary, respectively. And the said Board may either before or after making such assessment, cause the portion of sidewalks on such parkways as have not been built by the owners of such lands fronting on the same, to be built upon contract or by its own labor or by any other person as the said Board may determine.</i></p>	
<p><i>If the owner of any lot or parcel of land fronting on any such parkway shall suffer any sidewalk along the same to become broken or out of repair, the said Board may repair the same in a good and substantial manner, and assess and levy upon each of the lots and parcels of land fronting or abutting upon sidewalks which have been so repaired, the cost and expense of making such repairs. In each case the assessment of all such repairs within the year may be combined in one assessment roll and be collected in the same manner and time as the City Council collects similar assessments for repairs upon streets and alleys under its control, except as herein otherwise provided. In case any such sidewalk shall become so out of repair as to become dangerous and cannot be made safe without being rebuilt, the said Board may cause the same to be entirely removed and replaced by a new sidewalk, and the expense of removal and cost of rebuilding shall be assessed upon the abutting property and collected in the manner</i></p>	

<i>hereinbefore provided for constructing sidewalks.</i>	
<i>The said Board before ordering the construction of any new sidewalk or curb or gutter shall cause the ground or parkway along which they are to be built to be properly graded.</i>	
<i>It shall require a majority vote of the members elected to said Board to determine in the first instance to make any improvement of curb or gutter or sidewalk along any such parkways for which a special assessment may be levied.</i>	
<i>Any curb, gutter or sidewalk which said Board determines to make on any such parkway, the means to make or construct which are to be raised by special assessment, may be performed by contract let in the ordinary way or may be constructed directly by said Board by the employment of labor or purchase of material, or in any other manner in which said Board may deem proper in any particular case. The said Board may in its discretion in any case, instead of causing the special assessment to be made entirely upon estimates, wait until the letting of the contract for such improvement, or until such improvement shall be made, before determining and fixing the cost and expense of such improvement. And the said Board may at the time of ordering any such improvement for which any assessment is to be made, determine whether to proceed at once with such improvement or wait the collection of the assessments made therefor, or said Board may if the owner or owners of the property abutting on such improvements do not within the space of two weeks construct the sidewalks as ordered in front of their respective properties, and in all cases where the improvement is a curb or gutter or both, may proceed to build or cause to be built said sidewalks or said curb or gutter, and thereafter when the cost and expense of such improvements are ascertained, proceed to assess the same upon the respective property fronting upon such improvements.</i>	
<i>All special assessments for curb and gutter or sidewalks made by said Board under this Chapter, shall be assessed and made payable in five (5) equal annual installments plus interest and collected with the taxes for the year in which the installment is due; anything herein, or in the method or manner of collection of similar assessments by the City Council to the contrary notwithstanding.</i>	
All parkways which have been or which may be acquired in or adjacent to the City of Minneapolis shall be subject to the control and government of the Park and Recreation Board of said city, in respect to the construction, maintenance, regulation and government thereof; and to the use, travel and traffic over and upon the same; <i>provided, that no street, alley or public place, or any part thereof shall be taken for a parkway without the consent of the City Council of said city.</i>	[§ 7.2(a)(1)] Charter powers. The Board establishes, governs, administers, and maintains, and may design, develop, and improve— (A) the parks, parkways, and recreational opportunities in and adjacent to the City;
The said Park and Recreation Board may acquire by gift, lands without the corporate limits of said city for the purpose of continuing or completing any system of parkways within said limits, and shall possess the same powers and jurisdiction over said parkways as if they were wholly within the city limits.	[§ 7.2(a)(4)] Powers beyond City's boundaries. The Board may exercise all the same powers and functions with respect to any park, parkway, or other property that it owns or governs outside the City as with respect to the parks and parkways inside the City.
§ 16. Planting of Trees	
The Board of Park Commissioners [Park and Recreation Board] of the City of Minneapolis shall hereafter have the authority to direct and regulate the planting and preservation of shade and ornamental trees and shrubbery in the streets, alleys and public grounds of said City.	[§ 7.2(a)(1)(C)] the ornamental and shade trees in the City's streets, alleys, and public grounds and ways;

<p><i>No shade or ornamental trees or shrubbery growing in the streets, alleys and public grounds of said City, shall be destroyed or removed except by leave in writing first obtained from the President of said Board of Park Commissioners [Park and Recreation Board]; the same to be duly countersigned and recorded by the Secretary of said Board.</i></p>	
<p>The said Board of Park Commissioners [Park and Recreation Board] may, by proper ordinance, provide for the enforcement of this section, fix penalties for the violation thereof; and the Municipal Court of Hennepin County shall have jurisdiction of all offenses against such ordinances.</p>	<p>[§ 1.5(b)] Jurisdiction. The district court has jurisdiction— (1) over any case arising under this charter or an ordinance, including the prosecution for any violation</p>
<p>§ 17. Shade Trees</p>	
<p>Said Park and Recreation Board may in its discretion cause suitable shade trees to be planted along, and upon any street or alley, or any portion thereof, and upon any public grounds in said city; <i>and may cause to be assessed upon the piece or parcel of land abutting and upon such street, alley or public ground, and benefited by such improvement, the cost of purchasing and planting such trees, together with such sum as may be deemed necessary for the proper care of said trees for the period of three (3) years after such planting.</i></p>	<p>[§ 7.2(a)(1)(C)] the ornamental and shade trees in the City’s streets, alleys, and public grounds and ways;</p>
<p><i>The sum so assessed shall not be greater than fifty (50) cents per front foot upon any piece or parcel; and any trees that may die within three years after having been planted by said Park and Recreation Board shall be replaced by said Board without additional assessment.</i></p>	
<p><i>The Board shall, by resolution, direct the amount to be assessed against each piece or parcel of land; and its assessment shall be deemed to include all pieces or parcels benefited and the Secretary of said Board shall, on or before the tenth (10th) day of October of each year, transmit to the County Auditor of Hennepin County a certified copy of all such resolutions not previously certified to said County Auditor. And the said County Auditor shall extend the assessments in proper columns against the pieces or parcels assessed, and such assessments shall be collected, and the payment thereof enforced with, and in like manner as state, county and other taxes are collected, and the payment thereof enforced. And such assessments when collected shall be paid over by the County Treasurer to the City Comptroller-Treasurer [Finance Officer] of the City of Minneapolis and be placed in the park fund.</i></p>	
<p><i>The Park and Recreation Board shall have power to sprinkle or oil the parkways of said city, or any part thereof, and to levy and assess the cost of said sprinkling or oiling upon the lots and lands fronting upon that part of the parkway so sprinkled or oiled by an equal rate per front foot of said lots and lands. No assessments shall be levied against property outside the city limits of said city. The Park and Recreation Board shall cause each such assessment to be certified on or before the tenth (10th) day of October of each year to the County Auditor of Hennepin County, and the said Auditor shall include the same with and as part of the annual taxes for the current year upon the same lands, and such assessment shall be collected and the payment thereof enforced with and as a part of such annual taxes and with like interest, penalties and costs, etc. Such taxes when collected shall be paid to the City Comptroller-Treasurer [Finance Officer] and placed in the City Parks and Recreation fund.</i></p>	

CONCLUSION

This memo is intended to be a guide to the changes contained in the proposed Charter revision and to assist the Work Group in its discussion of those changes.